

**DISABILITIES OF VARNAS
IN
SMRITI LITERATURE**

A thesis submitted for D. Phil Degree
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PREFACE

The year 1991 was an eventful year in my life. In that year I completed my Post Graduation in Ancient History from the Delhi University and also cleared the University Grants Commission, Junior Research and Fellowship and National Eligibility Test in the maiden attempt. While I was contemplating on my Research Topic, my father Sri R.C. Tripathi was transferred to Lucknow and in November of the same year I got married and shifted to Allahabad, where my husband, Mr. Sanjay Awasthi was posted. At Allahabad, it was my realization that now I had an opportunity to join for my research at one of the premier institutions of the country, the University of Allahabad.

When I approached Prof. S.C. Bhattacharya, he very affectionately and readily received me in the Department and suggested that I choose to work on Social Systems, especially, those relating to the disability of the Varnas. I find that there could not have been a subject more topical, interesting and rewarding. I have no words to thank Prof. Bhattacharya who continued to guide me all through this period. Prof. Om Prakash, Head of the Department of Ancient History, Culture and Archaeology has been kind and considerate to me all the time. I always got help I needed in the Department. My thanks to each and everyone.

My work could not proceed as fast as I had anticipated due to my family. In the meantime I was blessed with two beautiful daughters.

I regret that running typeset has been used and diacritical marks could not be added. Any shortcomings are solely mine.

I am thankful to my parents-in-law Smt. Sarla and Sri U.S. Awasthi for their help.

I am deeply indebted to my parents, Smt. Girija Tripathi and Sri R.C. Tripathi whose encouraging behaviour, spirit and valuable suggestions sustained me through the rough passages during the time this thesis was written. My thanks are also due to all those who helped me during this period through advice, guidance in research and also typing of the manuscript, whose names I cannot give for want of space. Last but not the least, I am most grateful to my husband, Sanjay Awasthi, for providing me with support, from the trivial to the most vital, during this period. I cannot forget my daughters, Lavanya and Devashi, for being understanding and cooperative about my work, despite encroaching upon time which rightfully belonged to them.

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CHAPTER - I

INTRODUCTION

The context/issue of caste has incited a myriad of reactions ranging from one extreme, which demands the immediate disbanding of the hierarchically organized and discriminatory system, ranging to the other extreme which says that the caste system has provided a multiple index and reference to the society, and has helped to maintain its coherence and continuity, despite the challenges imposed upon it from the time of the Macedonian invasions in 3rd c bc to the Mughal dominance and the hydra like tentacular grip of British Imperialism up to the 20th century. The recent U.N. Conference against racism, racial discrimination, xenophobia and related intolerance, held at Durban (27th August - 7th September, 2001) has once again brought to surface the two faces of the social conflict. At the Conference, the race and caste were equated, and it was largely agreed upon that both needed to be abolished as both represented some form of exclusion, although both represent different conceptual universes. Thus while race, represents a biological/genetic category and caste on the other hand represents a form of exclusion by social stratification.

Hence once again, we go back to the basic issue of what is caste?

C. Bougle¹ writing in "The Essence and Reality of the Caste System", in Contributions to Indian Sociology, in attempting to define the caste system writes, "The spirit of caste unites these three tendencies, repulsion, hierarchy and hereditary specialization, and all three must be borne in mind if one wishes to give a complete definition of the caste system. We shall say that a society is subject to this system if it is divided into a large number of mutually opposed groups which are hereditarily specialized and hierarchically arranged if, on principle, it tolerates neither the parvenu, nor miscegenation, nor a change of profession..... Only by keeping these three constituent elements of caste before our eyes can we see in which civilizations it has flourished and with what social forms it is associated. If in our search for a caste system in historical reality we are guided by this integral definition we can see at a glance that easy as it is to perceive the scattered elements of the system it is less easy to find it complete and perfect in its entirety. If there are few civilizations into which one or other of its characteristic tendencies has not penetrated, there are also few in which all three united are to be seen flourishing freely." The last part of the statement refers to the Indian society, where the hierarchically organised, mutually independent groups flourish, and again Bougle² comments, "All observers have been struck by the fact that these specialised elements of

Hindu society are not only superimposed but also mutually opposed and that the force which animates the whole system of the Hindu world is a force of repulsion which keeps the various bodies separate and drives each one to retire within itself."

At the Durban Conference, despite the Indian Governments official position which postulated against the raising of any "internal domestic concerns" at an international forum which highlighted the potential danger of an infringement of national sovereignty by outsiders, and the acceptance of these concerns by the activists, yet many activists, that while caste was not race, yet the real life reflections of the two at the grass root were similar.

The Encyclopedia Britannica defines race as a biological grouping within the human species possessing genetically transmitted traits that are sufficient to characterize it as a distinct human type.³ These are distinguished as follows, with their historical site of origin as indicated in the parentheses: European (Europe, Middle East, North Africa); Asiatic (East, South East, and Central Asia); African (sub-saharan Africa); Indian (Asian Indian sub-continent); American Indian (North, South and Central America); Australian (i.e. Aborigines of Australia); Polynesian; Micronesian; and Melanesian. Smaller groups, known as local races, exist within most geographic races. Local races

remain distinct through the influence of such factors as social custom, religious custom, geography and population density. Even smaller groupings known as micro races, can be discerned within local races.

There are no pure races, as all human races are in a continual state of flux, with genes flowing from one genetic pool to the other, by a process known as admixture (also called miscegenation, or gene flow). Causes of much admixture may be due to political disturbance, population pressure, war and genetic mutation. Hence, race in its most primary formulation is a biological concept.

And under the biological concept, races are recognised by a combination of geographic, ecological and morphological factors, and since the 1970s, by analyses of the distribution of gene frequencies for numbers of essentially non-morphological, biochemical components "As genetic analysis came to be applied, in respect first of blood-groups and later of a variety of proteins, clines were found which cut across the boundaries of minor and even major races. Moreover, it was found that the genic variation between the major races was small in comparison with the interracial variation. Doubts began to be expressed as to whether there was any biological basis for the classification of human races. "4

From this biological basis of race, has arisen the practise of Racism. "Racism, is the idea that there is a direct correspondence between a group's value, behaviour, attitudes, and its physical features is one of the major social problems confronting contemporary societies."⁵ The Encyclopedia generally traces the origin of racism with events such as the European colonization of the globe, development of European capitalism accompanied by European and American slave trade, which allowed "color and race "to become pivotal links in the relations between Europeans, Americans and the people of Africa, Asia, Latin America and Australia, culminating in a pernicious feature which entails the belief that some groups, those of a certain hue, with less power and low status, are inferior; others, of another hue, with greater power and high status are deemed superior. This was thus the "ideological racism", whose foundation was laid by social Darwinism of the 19th century. The other doctrine employed by racism was "scientific racism", which entailed the use of "scientific techniques," to sanction the belief of American and European racial superiority. These scientific basis were the 'objective IQ tests,' use of brain size etc. Genetical and morphological analysis of human populations has failed to confirm that some races are superior and other races inferior. And finally there was institutional racism which utilized organisational networks linked to

rules, procedures and guidelines, thereby making it difficult for members of one group to affiliate institutionally with the members of the other group.

How racism and casteism came to be conjoined together is under the aegis of ICERD, in 1996, which observed that, "The situation of the Scheduled Castes and Scheduled Tribes falls within the scope of the convention." The areas of similarity being that caste is seen as a violation of human rights leading to organized social and economic discrimination against the dalits and culminating in violence on the dalits, all which imply that casteism is racism by another name.

Dipankar Gupta⁶ in an article "caste, race, politics" opines on why is caste so often mistaken to be another kind of racism. He says, "There are two reasons for this. One is a misreading of the Vedic texts inspired by the distinction made by early Indologists between fair Aryanas and dark Dravidians. The other reason for equating caste with race comes about because there are some similarities between the way blacks were treated in Southern United States, or in apartheid Africa, and the treatment meted out to so-called "untouchables" in caste Hindu Society.

On the first point Dipankar Gupta writes on factually wrong interpretation and cites the word, "anas", which has a dual meaning in "a person of poor speech and not some one who is a nose-less." Similarly,

he says, "Early European Indologists took a shine to the notion that fair Aryans conquered dark Dravidians in remote history probably because it justified such a re-enactment in colonial India..... The factual evidence given in favour of this point of view is exceedingly exiguous. In fact, the manner in which dark skin and fair skin have been read into the Vedic texts is highly disputable. What is interpreted as "fair skin" in the Vedas could easily mean, and most probably did mean, light, in which case it was not a matter of skin complexion but of knowledge." On the issue of Race, Dipankar Gupta citing a study, by D.N. Majumdar and C.R. Rao (1960) *Race Elements in Bengal: A Quantitative study*, says that on the basis of a statistical study of the so-called race elements in Bengal, they arrived at a conclusion that there were overwhelming physical similarities between high and low castes within the same geographical race. But the story was different between different regions. Upper castes in one area differed a great degree from upper castes in a different geographical locale. The same held true between lower castes in different regions of the country. Thus 'caste as race' argument does not hold much water even on the genetic mapping sphere.

Again, on the second issue raised, caste cannot be equated with race as because mixed marriages among the Varnas, do not result in mixed off springs but in dangerous outcastes. This phenomenon of caste

is in "direct contrast to children born out of inter-racial unions, who are recognized to be possessing the strains of both parents and are thus classified as hybrid, mulattos, octoroon, quadroons, and so on. In many racist societies, mulattos and mestizos have greater privileges and occupy a higher rank than other blacks..... Additionally, in a racially segregated society one's sense of identity gets stronger as one moves from the particular to the more general level. In other words, it does not matter if the person is from Belgium, Germany or Holland, as long as the person is white..... Caste identity works in reverse direction, caste loyalties gain in commitment the more localized and particularized they get. It is not enough to be a brahmana but to be a brahmana of certain endogamous jati, such as kanyakubja brahmana or chitpavan brahmana or barendra brahmana."

Another argument, on the Race versus Caste, issue is that, while "race politics get its charge from bipolar antagonism between blacks and whites..... As caste operates on the basis of separation into discrete categories, which then fashions multiple hierarchies, the single hierarchy principle of race would be quite alien to it."

Thus if Race and Caste are not the same, then how should caste be seen in the social context. A generally accepted concept of caste, usually regards the enumeration of disabilities imposed upon, the dalits

as forming the basis of the exploitative system. In this work an attempt has been made, to see the entire formulation of Varna as a systemic approach, in which, the Varna duties, marriage relations, law and justice, and the notions of purity and auspiciousness, all formed the various sub-components which helped an entire civilization to function effectively. The civilizational basis was provided by the unifying schematic paradigm, which was Varna, which was organized around the concept of ability/competence and not disability. Moreover, another attempt made in this work is to regard the entire concept of the Varna and its sub-components in a positive light, to try and establish positive linkages in what is otherwise regarded as a discriminatory hierarchical ordering of social groups.

In the chapter, 'The context of ability/disability' an attempt is made to establish the fact that ability/disability are merely the turn facets of a singular aspect. This has a similarity to the principle to ying and yang, the dynamic and receptive aspects of any one phenomenon. Thus, it can be said that ability in one sphere did not necessarily translate into ability into another sphere, which implied that although a person had the necessary competence in one arena, in another sphere, there was a lack of competence resulting in disability in the second. The Varna system of India, was based upon the whole conceptualisation as

ability/qualification being the pre-requisite to management tool necessary to activate a civilizational system. This context of ability and disability in the social sphere can trace its corollary to the biological aspect of impairment, causing disability and resulting in some handicap or the other.

The next chapter is dwells in brief upon the issues pertaining to the domain of Varna. In this context, the conceptualization of dharma is highlighted, which was the basis of conduct of duties for the Varna, while the basis of Varna functioning, according to the rashis, was conduct and orderly performance of assigned functions, modern sociologists have read various traits into the Varna order, and these revolve around differentiation, stratification and discrimination which focus around identification with role and groups. The last point of identification is especially significant as it forms the very essence of the Varna order. This point is alluded to in the Rig Veda (VIII, XXXV, 17 & 18) which gives the following basis of identification as, "The ruling power: Ksatran, hence it led to the formation of Kshatriya, a man of princely or military order. Similarly, it defines, the people as visas, hence it led to the creation of Vaisyas, a man of mercantile class or order.

The chapter, "The System Approach: Varna, tries to define and place Varna as "anything formed of parts placed together or adjusted into a regular and connected whole".⁷ This chapter also indicates that in order to understand the entire system in its fullness is "to understand the problems of total organisation, of wholeness, and of the dynamic interactions of the phenomena."⁸ The attempt in this chapter is to place Varna as the totality of the whole. This in this context the various arguments in the Varna and jati continuum are discussed and finally, in a multiple index referencer, Varna establishes its primary marker on the civilizational matrix. The reasons given by Prof Sibesh Bhattacharya only help to augment the fact that caste was "not just a theoretical model" but a scheme which provided the "central unity" to a civilization which refused to buckle under the threats which arose from time to time in the social canvas.

The next few chapters on sub-components, is an attempt to discuss the parts of the whole/unitary system. The social structure of any given society manifests itself in the classification of its human beings, the rights and duties assigned to each category, the relations of superiority, subordination and mutual dependence that is postulated between such categories. It also manifests itself in the visible or invisible integration of its activities for realising certain goals that may

be specified, or that lie embedded in the traditions of the society. The social structure is thus essentially a framework of human relations by categories and sub-categories.

In the first of the chapter dealing with the sub-component on duty is to establish that the possession of necessary functional qualification (i.e. ability) along with the requisite virtue, allowed for a person's initiation into that concomitant Varna. Also it is aimed to establish, that there was no exclusivity of the Varna duties, but all Varnas were mutually interdependent and cooperated with each other to keep the functional sub-component working.

The next chapter deals with the sub-component of connubium, where marriage as a highly venerated institution, through cooperation between the male and the female, gives continuity and coherence to society. However, in these marriage relations the prescribed rules were being transgressed causing miscegenation. Thus this entire notion of miscegenation had to be dealt lucidly so that it could not rupture the social fabric of society. Hence a system of motivation and reinforcement was provided to follow the prescribed marriage regulations. Another aspect touched upon is how the marriage forms were coterminous with the virtues of each Varna.

In the justice and law sub-component chapter the points which are sought to be established that firstly, moral sins were regarded as extremely heinous, secondly, in the award of punishment did not favour the brahmanas, but was based on the principle that knowledge of rules is an aggravating and accentuating factor and hence the higher the position the greater was the fall and lastly, the attempt is to prove that the system of judicial procedure was extremely rational and modern in outlook.

The last sub-component deals with purity and auspiciousness, and three major heads are covered. The first effort is to establish that untouchability as we know of today was not an exclusivity/exclusion phenomenon in the Smriti. This was a system of social exclusion to individuals and groups who threatened the systemic basis of society. The second issue tries to indicate that the strong strictures on restrictions of food were overcome by resorting to the mechanism of pakka food. Lastly, it is attempted that the dietary practise of vegetarianism as a superior form was an attempt of the Brahmanas to overcome the threat posed to the system by the heterodox cults.

Thus the attempt has been to show that each sub-component was vital for the co-ordinated working of the system. Yet at the same time while working in a cooperative manner, an effort was to retain their distinct and separate identity, by devising special rules and regulations

to assert their 'distinctness'. This can be seen in any economic organization, which is divided into separate yet interconnected branches or sub-components of administration, finance, human resources and research and development, which have their separate identity, ability and cultural behaviour norms. No movement is possible laterally between branches, yet all the sub-components work jointly towards achieving the organisational goals. Thus, similar was the management ethos which guided the Varna system of civilizational behaviour.

NOTES

¹ Social stratification - op.cit - reprinted in Ed. Dipankar Gupta: p.65

² Bougle; ibid - p.69

³ Encyclopedia Britannica: p.876 vol.9.1998

⁴ Encyclopedia of social sciences: p.712-713. Adam Kuper & Jessica Kuper. 1996. Routledge.

⁵ Rutledge. M. Dennis: p.715 in Encyclopedia of social sciences. 1996.

⁶ D. Gupta : Caste, Race, Politics in Seminar 508. December, 2001

⁷ Chamber's Dictionary.

⁸ S.C. Malik: Understanding Civilization: p.32.

CHAPTER II

THE CONTEXT OF ABILITY AND DISABILITY

In this work, an attempt is being made to discuss the various structural basis of the caste system. In this chapter, and in the following ones, an attempt will be made to discuss the functional aspects of caste system and an effort made to prove that what were regarded as the disability of the Varna society, were in actuality the cogs in the wheel for smooth functioning and organisation of a fairly complex organisation. The rules and regulations regarded as discriminatory in nature were in fact supreme tools of management of a "Systems Approach" which was "relatively open", in its character and organisation.

This chapter is an attempt to deal with the juxtapositioning of two similar functional entities of ability and disability. In attempting a definition of ability, the New Oxford Dictionary of English states that the origin of the word is from Late Middle English, deriving from Old French ablete, from Latin *habilitas*, from *habilis* or 'able', which implies the capacity to do something in its noun form. This ability could relate to

- a) the talent which enables someone to achieve a great deal.
- b) and in the context of education, it defines a level of mental power; a particular talent or skill

The Roget's' International Thesaurus would like to define ability

as:-

- (i) able: capable, equal to, up to, competent, adequate, effective, effectual, efficient, efficacious, proficient⁽¹⁾.
- (ii) qualified: filled, adapted, adjusted, suited; qualified, fit, competent, able; capable; well fitted, well qualified; well suited⁽²⁾.
- (iii) competent: capable, able, efficient, qualified, fit, fitted, suited, worthy, capable of⁽³⁾.

Seen from above thus ability is by virtue related to - competence, qualification and proficiency in any chosen field of operation or specialisation.

Thus, in reference to the above definitive expressions on ability, therefore the variety of interpretations on ability would extend to

- ability in duty/qualification: duties assigned to various grouping or categories on the basis of perceived competence and qualification;
- ability translated in disability in legal judicial procedures;
- the ability to carry out economic duties;
- ability in managing social relations within/without the community: the marriage relations;

- ability, although which naturally grades society on perceived qualification, and hence discriminatory, translates as a means by which the society can be ordered or structured to meet societal goals or objectives.

In the Indian social fabric, ability, can be regarded as the nucleus around which all social, political, economic and cultural objectives were intertwined. This aspect which C. Bougle highlights in the context of Brahmanas, can logically extend to other sections of society. As Bougle, says, "This superiority implies purity and it is true that the concern to preserve purity excludes many kinds of activity."⁽⁶⁾

The opposite of ability would naturally be 'disability'. The New Oxford Dictionary of English defines disability as - "a physical or mental condition that limits a person's movements, senses or activities" which could be "a disadvantage or handicap, especially one imposed or recognised by the law."

Similarly the Roget's International Thesaurus, gives two broad parameters for disability-

- 1 - inability
- 2 - illness

inability, incapability, incapacity, incapacitation, incompetence or incompetency, inadequacy, insufficiency, inefficiency, unfitness, imbecility, disability, disablement, disqualification.⁽⁵⁾

infirmary, disability, defect, distemper, lesion.⁽⁶⁾

Thus disability may stem from two source springs -the first and as generally understood physical and secondly from basic lack of competence or proficiency which is vital to execute a task/job/responsibility.

The World Health Organisation discusses disability from three biological perspectives, which are;

- impairment, which is the absence or defect of a limb, organ or bodily mechanism
- disability or disablement; that is the reduction or loss of function or ability consequent upon impairment.
- handicap, explained as the disadvantage or constraint which follows from disability.
- The universal acceptance of disability is with the reference to biological factors.

The universal acceptance of disability is with the reference to biological factors. However, these aspects of incapacity/inability have of late become a visible social phenomenon, whose research is basically descriptive and tied to agendas of policy formulation and evaluation, resulting/leading to the advocacy for/of demographic monitoring.

In this very sequence of impairment, disablement or disability and handicap, does and should find a space for study in subject like history and sociology. The reason for this advocacy lies in the fact that, in particular, in India as it is generally understood with reference to the caste system this kind of impairment began at the time of conception. By this, what is implied that, the birth in the specific caste decided the ability (here being translated into duty and responsibility to be nurtured with commensurate training). Subsequently the impairment (i.e. lack of training) in spheres other than one was indicative of the absence of competence in basic suitability to other job specifications. Hence it was regarded that the discriminatory aspect of caste system was established even before birth, and a person condemned to lifelong existence in exploitation.

The social analogy can trace its parallels with the fact that physical and biological impairments are caused by deficiency inadequate healthcare and poor social provision, in turn contributing to poverty and underdevelopment leading to disablement and disability in other spheres, which in turn leads to building of handicaps within the social society. Thus the social structure by its very nature became a system of interdependent existences, which modern research has defined as stratification and hierarchical ordering of society. The social analogy

can trace its parallels with the fact of physical and biological deficiency are caused by dietary deficiency, inadequate health care and poor social provision, in turn contributing to under-development. This vicious cycle of effect being the cause was something which was for Indian society the evil of the Varna order, although its progenitors did not visualize Varnas functioning and maturity in that negative light.

The oft quoted Rig Vedic hymn (IX, 112)⁽⁷⁾ says:-

कारुरहं ततो मिष मुपलप्रक्षिणि नना ।

नानाधिया वसुयवो ङनु मा इव तस्थिमे न्द्रायेन्दो परि स्रव ।।

The above verse translates as follows,

"A bard I am, my father a leech,

And my mother is a grinder of corn,

Diverse in means, but all wishing wealth,

Equally we strive for cattle."

The above verse indicates that members of the same family took to different arts, crafts, and trades. This points to the fact that the Varna system, in its origin and inception visualized the freedom for and mobility of labour, and there was nothing like the hereditary trade and occupational specialization.

As M. Oliver (1990), in his work, "The politics of disablement" (Basingstoke) has argued that "disability is wholly the product of social

exclusion and marginalisation." This argument was developed by (Swain et al 1993)⁽⁸⁾ who argued that "the focus of attention should, for example, be upon debilitating built environments and the inadequate nature of social response to impairments, not upon disabling conditions or people with disabilities."

Thus it is important to note that while people nowadays are resisting a social stigmatisation and questioning the social provisions which others make for them, yet at the same time this modern phenomenon has its genesis in social history, which at a given moment in history ossified itself thus becoming resistant to the winds of change. In the study of ability/disability, an attempt is made to give a holistic picture of the structuralist functioning of the society where Varna relations were essentially the management tools for a society, and not the creation of an exploitative and discriminatory social organisation.

NOTES

⁽¹⁾ Thesaurus - 156, 11th Edition Oxford University Press New Delhi 1978

⁽²⁾ Thesaurus - 718, 11th Edition Oxford University Press New Delhi 1978

⁽³⁾ Thesaurus - 731, 11th Edition Oxford University Press New Delhi 1978

⁽⁴⁾ C. Bougle: The essence and reality of caste system in D. Gupta Ed. social Stratification p.67

⁽⁵⁾ Rogets Thesaurus: 11th Edition 157 Oxford University Press, New Delhi 1970

⁽⁶⁾ -- Ibid -- 684 " " " "

⁽⁷⁾ Rg. Veda : IX, 112.3.

⁽⁸⁾ Swain J. Finkelstein, V., S. and Oliver, M. (Eds) (1993) Disabling barriers - enabling environments, London.

CHAPTER - III

CASTE: THE PROBLEM

The word caste has its origin in Portuguese 'casta' a word which properly signifies "breed" used by them to signify the social division among the populace of India, with whom they entered into commercial and trade relations. Emile Senart writes that the whole of India was a "mass of corporate unities" divided into a great number of exclusive hereditary groups distinguished by their special occupations..... graded into a sort of hierarchy, the upper groups refraining with superstitious care from all intercourse with those considered more lowly."¹

Hence if once accepts social division as a basis of study with hierarchy, stratification and division as the basic premise. Then naturally the privileges of one group become the disabilities of the secondary or hierarchically inferior grouping.

In a society as highly stratified as the Indian society it was but natural that the social status of any one individual was the chief determinant of the prerogatives he enjoyed in society. While a great deal of literature has been expended upon the privileges enjoyed by certain groups to the detriment of lower groups rights and liberties, relatively lesser reasons have been devoted to the study whether the caste system was as a systemic organization or merely a debilitating element in social organization.

Anthropologists and sociologists use the word "Caste" in two different senses. As an ethnographic category it refers exclusively to a system of social organisation peculiar to Hindu India, but as a sociological category it may denote almost any kind of class structure of exceptional rigidity. Such double usage is unfortunate. The tendency to

stress the "status-group" component of caste prejudices the whole question as to what is the sociological nature of the Indian phenomenon. Conversely, the merging of class and caste concepts is liable to lead to a highly distorted image of the nature of "colour-bar" and other manifestations of rigid social differentiation.²

Before embarking upon any discussion of caste privileges and consequent disabilities it becomes imperative to look into the entire conceptualization of disability. What is disability poses? The Funk and Wagnall's Standards Dictionary defines disabilities as one that disables or that which heads to a legal incapacity to act. The "New Oxford Dictionary of English" defines disability as.... "a physical or mental condition that limits a person's movement, senses, or activities." How does one define disability, which can take a medico or layman closer to the understanding of the challenge the indication of disability poses? Disability has, come to be defined as: an existing difficulty in performing one or more activities which in accordance with the subject's age, sex and normative social role are generally accepted as essential basic components of daily living."⁽³⁾ The above stated definition is an attempt to discuss disability in the physical sense, but if one speaks of disability then, "it is a problem that has medical implications, and also carries social overtones."⁽⁴⁾ A Third understanding of disability is given the "New Oxford Dictionary of English" defines disability also as.... "a disadvantage or a handicap, especially one imposed or recognized by law."

Hence, if ones studies disability in the social sciences, it is a limitation imposed by law. So arises the question, what is law?

The dictionaries generally define Law as rule established by authority; a set of such rules, their influence or operation; a statement of

what always happens in certain circumstances. The Funk and Wagnall Dictionary discusses law as, under the following heads of

- 1) A rule of conduct, recognized by custom or decreed by formal enactment, considered as binding on the members of a community or nation.
- 2) A system or body of such rules.
- 3) The body or rules relating to a specified subject or activity: criminal law.
- 4) Remedial justice as administered by legal authorities: to resort to the law.
- 5) The branch of knowledge concerned with jurisprudence.
- 6) The legal profession
- 7) Divine will, command or precept.
- 8) Any generally accepted rule, procedure, or principle governing a specified area of conduct, body of knowledge etc.
- 9) In science and philosophy, a formal statement of certain regularities found in natural phenomenon.

Most of the arguments pertaining to "What is the Essence of Law" are organized around a single dichotomy, whether the basis of law is a moral consensus or a matter of organized domination. As far as the Indian scenario is concerned on law, the Manusmriti says,

"In this (work) the sacred law has been fully stated as well as the good and bad qualities of (human) actions and the immemorial rule of conduct, to be followed by all the four castes (Varna)."⁽⁵⁾

Hence the essence of law in India becomes the conduct of the Varna dharma.

Much earlier in the Rig Veda it is stated-" With Mitra, Varuna, Dharma, and the Maruts in your company approach into your praiser's call.

Accordant, of one mind with Surya and with Dawn, and the Adityas, Asvins. Come."⁽⁶⁾

Ralph Giffith has translated Dharma as being equated here with Right, Justice, Law, Virtue and a Deity personified.

Thus law in India was always Dharma. The term Dharma has been used in various nuances, those of

- as noun
- as an adjective
- as itself
- as a deity personified

The earliest conceptualization of dharma is in regard to prathama dharma (primeval ordinances) in the Rig Veda:

समिध्यामानः प्रथमानु धर्मा समवत्तुमिरज्यते विश्रवारः ।

शोधिष्केशो घृतनिर्णिक पादकः सुयज्ञो अग्निर्यजथाय देवाम् ।⁽⁷⁾

Duly enkindled after ancient customs bringing all the treasures, he is balmed with unguents,

Flame- haired, Oil clad, the purifying Agni, skilled in fair rites, to bring the gods for worship.

Similar in the import is another verse of the Rig Veda⁽⁸⁾ which says-

वाज्यसि वाजिनेना सुवेनीः सुवितः स्तोमं सुवितो दिवं गाः ।

सुवितो धर्मं प्रथमानु सत्वा सुवितो देवान् त्सुवितोऽनु पत्नम् ।।

Strong steed art thou: go to the yearning maidens with vigour, happily to heaven and praises;

Fly happily to the Gods with easy passage, according to the first and faithful statutes.

Thus dharma was always the first rules and ordinances of conduct and behavior.

Another meaning of dharma is that pertaining to sanata dharmani or the ancient ordinances. Thus, the Rig Veda states

वैश्वनराय पृथुपाजसे विषो रत्ना दिवन्त धरुषोषु गातये ।

अग्निर्हि देवां अमृतो दुवस्य व्यथा धर्माणि सनता न दुदुषत् ।।⁽⁹⁾

The above verse translates as follows,

"To him who shines afar a Vaisvanara, shall bards give precious things that he may go on certain paths,

For Agni the Immortal serves, the deities and therefore, never breaks their everlasting vows,

In the following contexts, dharma is the fixed principles or rules of conduct:

आग्रा रजोसि दिव्यानि पार्थिवा श्लोके देव : कृणुते स्वाय धर्मणे ।

प्रबाहु अस्त्राक सविता सवीमनि निवेशयन् प्रसुवन्नक्तुभिर्जगत् ।।⁽¹⁰⁾

Implying that,

"He hath filled full the regions of the heaven and the earth: the God for his own strengthening waketh up the hymn.

Savitar hath stretched out his corner to cherish life, producing with his says and lulling all that moves."

Thus dharma, or conduct was a set of rule which were even persued by Gods.

Once again the Rig Vedic verse in describing the dharma of Gods Mitra-Varuna, sets the parameters for the performance of their duties.

धर्मणा नित्रायरूणा विपविश्वता व्रता रक्षेथे सुरस्य नायया ।

ऋतेन विश्वं भुवन् वि राजथ : सूर्यमा धत्थो दिवि चित्रं रथम् ।।⁽¹¹⁾

Wise, with your law and through the Asura's magic power ye guardth ordinances, Mitra-Varna.

Ye by eternal order govern all the world yet set the sun in heaven as a refulgent car.

Again and again the Rig Veda , reinforces the import of dharma as ordinances and rules of conduct. It says

धृतवती भुवनानामभिभ्रियो रीं पृथ्वी मण्डपुचे सुवेशसा । ।

द्यावापृथिवी वरुणस्य वम्रणा विष्कमिते अजरे भूरिरेतसा ।।⁽¹²⁾

Filled full of fatness, compassing all thing that be, wide, spacious, dropping meath, beautiful in their form.

The heaven and the Earth by Varuna's decree, unwasting, rich in germs, stand parted each from other.

Another verse, again from the Rig Veda which can be cited in context of dharma is:-

यत किं चेदं वरुणः दैव्ये जने ङभिद्रोहं मनुष्याई श्रच्छामसि ।

अर्धित्ति यत् तव धर्मो युयोपिम मा नस्तस्मादेनसो देव रीरिषः ।।⁽¹³⁾

"O Varuna, whatever the offence may be which we as men commit against the heavenly host,

When through our want of thought, we violate thy laws, punish, us not, O God, for that iniquity."

Another visualization Dharma also meant" religious ordinances or rites"

This view traces its genesis again from the Rig Veda which writes.

प्रीणि पदा विचक्रमे विष्णुर्गोषा अदाम्यः ।

अतो धर्माणि धारयन् ।।⁽¹⁴⁾

Vishnu the Guardian, he whom none deciveth, made three steps, thenceforth establishing his high decrees.

शकमयै धूममारादपश्य विष्णुवता पर एनादरेणा ।

उक्ष्माणं पृश्चिमपचन्त वीरा स्तानि धर्माणि प्रथमान्यासन् ।।⁽¹⁵⁾

"I saw from far away the smoke of fuel with spires that rose on high o'er that beneath it.

The mighty Men have dressed the spotted bullock. These were the customs in the days aforetime."

समिधानः सहस्रजि दग्ने धर्माणि पुष्यसि ।

देवानां दूत सव्यः ॥⁽¹⁶⁾

Victor of thousands, Agni, Thou enkindled, cherishest the laws,
Laud worthy, envoy of the Gods."

विशां राजानमद्धत मध्यक्षं धर्मणामिमम् ।

अग्निमीले स उ श्रवत् ॥⁽¹⁷⁾

I pray to Agni, king of men, the wonderful, the President
Of holy Laws: May he give ear.

The similar meaning of Dharma Can also be gleaned from other Vedic references.⁽¹⁸⁾ Thus dharma gives various meanings as ancient, eternal laws of nature, which the anthropomorphic deities of Rig Veda was duty bound to follow, and dharma also formed a part of the religious duties of all components making up the Universe.

The Atharvaveda, (XI.7.17) too mentions the word dharmah as the sense of "merit acquired by the performance of religious rites."

The Aitareya-brahmana, (VII.17 and VIII.13) too mentions dharma in the same sense of the "body of religious duties."

It is in the Chandhyoga Upanisad that a more elaborate version of dharma is given as (having) "three branches one is (constituted by) sacrifice, study and charity, (i.e. the stage of the householder), the second(is constituted by austerities i.e. stage of the hermit); the third is the brahmacharin dwelling in the house of the teacher and making himself stay with the family of his teacher till the last; all these attain to the worlds of meritorious men, one who abides firmly in Brahman attains immortality."⁽¹⁹⁾ Thus dharma also defined the duties of the various asrama.

The Taittiriya Upanishad says - "speak the truth (and) practise (your own) dharma".⁽²⁰⁾ A view which is echoed in the Bhagwat Gita which says "svadharma nidhanam sreyah."

The Manusmriti, strengthens the belief of dharma as duties wherein it says

"भगवन्सर्ववर्णानां यथावदनुपूर्वशः ।

अन्तरप्रभवाणां च धर्मानो वक्तुमर्हसि ॥ "

(Be pleased, o thou who art possessed of the six kinds of opulence, to expound to us, in due order, the duties of all the (four) social order, as well as those of the members of the mixed castes."⁽²¹⁾

The same sense as that of the Manusmriti is repeated by Yajnavalkya which says -

योगीश्वरं याज्ञवल्क्यं संपूज्य मुनोऽब्रुवन् ।

वर्णाक्रमेयराणां नो ब्रूहि धर्मानशोशतः ॥⁽²²⁾

This translates as follows

"Having adored Yajnavalkya, the Lord of Yogins (ascetics), the Munis (anchoritics) said; "Do thou describe unto us in full, the religious rites of the Varna (four castes), asramas (four order) and those of other inferior castes."

Thus dharma, and its meaning from its very inception as evident from the Rig Veda down to the Smriti, are unanimous in seeing it as ordinances, duties and conduct, those of Gods and Natural Phenomenon, to the duties of an individual at a specific stage of life. Thus dharma, was the support and sustenance for social conduct, through dharma. Thus this dharma was the law of society. This context is brought out very clearly in its etymology. Thus the word dharma is derived from the root 'dhr' which means to support or uphold, hence the Earth, which supports and sustains all life on this planet is called 'Dhara', the upholder.

The sense of dharma as being equal to duties was firmly entrenched by Medhatithi commenting upon Manu - who said that expounders dilate upon dharma as fivefold; varnadharma, asramadharma, varnasramadharma, naimittika dharma and guna dharma. Mitaksara commenting upon Yajnavalkya says

"अत्र च धर्म शब्दः बहिव्यस्मैति धर्मविषयः ।

तद्यथा- वणधर्मः, आश्रमधर्मः, वर्णाश्रम धर्मः

गुणधर्मः निमित्तधर्मः, साधारणधर्मश्चेति ॥ ⁿ⁽²⁴⁾

Thus Mitaksara adds a sixth category of duty, that is sadharana dharma, to Manu's conceptualization on duties.

The Smriti literature also talk about apad dharma, or duties in times of distress. The Manusmriti says

अब्राह्मणादध्ययनमापत्काले विधीयते ।

अनुव्रजया च शुश्रूषा यावदध्ययनं गुरोः ।।⁽²⁵⁾

Similarly, in Chapter X of Manu, which in large part is devoted to conduct/duties in times of distress, it is contained

एते चतुर्णां वर्णानामापद्धर्माः प्रकीर्तिताः ।

यान्सम्यगनुतिष्ठन्तो ब्रजन्ति परमां गतिम् ।।⁽²⁶⁾

"Thus I have described to you the duties of the four social orders in times of distress, by faithfully discharging which men acquire exalted status." The term dharma was derived from the root 'dhr' which means sustainer and upholder. It was dharma of rules and conduct which upheld the society and provided nourishment for future progress of man and environment. This idea of duty, conduct was inbuilt and subsumed within the social organization of varna order, called/typified as caste system by social scientists.

Thus from the above quoted references it can be said beyond any doubt that the conception of dharma was far reaching. It did not merely

imply a creed or religion but a mode of life, a code of conduct which regulated man's work and activities as a member of society and as an individual and was intended to bring about the gradual development of a man and so as to enable him to reach the goal of human existence.

From the above standpoint various divisions of dharma can be made. Dharma was divided broadly into two categories of *śrauta* and *smarta*. *Śrauta*, implied the rites and ceremonies of the Vedas which were the preserve of the Brahmanas, as consecration of the three fires, New Moon and Full Moon sacrifices. The *smarta*, comprised topics which were the preserve of the *smṛiti* and pertained to life, conduct and activities of man. This view is mentioned in the *Matsya Purana*⁽²⁷⁾ which says

द्वाराग्निहोत्रसंमन्वमिज्या श्रोतस्य लक्षणम् ।

समार्तो वर्णाश्रमचारो यमैश्च नियमैर्कृतः ॥

The same two fold division of Dharma is given in the *Vayu Purana*.⁽²⁸⁾

The *Baudhayana Dharma Sutra*⁽²⁹⁾ however classified dharma into three categories, basing itself upon the three sources of dharma as śrauta, smarta and śistacāra. A far more comprehensive division of dharma is provided by Medhatithi, commenting upon Manu (II.25) who gives a five fold division of Dharma into

- (1) varna dharma
- (2) āśrama dharma
- (3) Varnasrama dharma
- (4) guṇa dharma
- (5) naimittika dharma

Mitakasara commenting upon Yajñavalkya (I.I) gives the classification of dharma as six fold. To the above five groups he adds a sixth category of dharma as *sadharana dharma*, which implied dharma which is common to all humanity as *ahimsa* and other virtues.

A significant point which emerges from a study of the above list of dharma is that, nearly all of them revolve around the aspects of asrama and varna, so it may be said that dharma implied the rules of conduct of the stage of life of an individual and the established ordinances for social categories, but certainly dharma cannot be confined to the boundaries of religion only.

Hence in the Indian context that law was signified under the term dharma, which had a comprehensive and encompassing value pertaining to all aspects of life and especially including the duties and conduct of man in society. Thus Varna was also known by its duties, however modern social science and research has sought to locate certain sociological issues within Varna society. Notably with 'roles and groups' which is central to the functioning in any society. Underlying these 'roles and groups' the undercurrents of Varna society are highlighted by sociological concepts of:-

- A. Social differentiation
- B. Social stratification
- C. Social discrimination.

A) **SOCIAL DIFFERENTIATIONS**

Social differentiation is largely of two kinds

- (i) Intra Group and
- (ii) Inter Group.

Intra Group differentiation represents a division of all the group into sub-groups that perform different functions in a group without being superior or inferior to each other. On the other hand Sorokin's contention is that, that Inter group differentiation is represented by the multitude and

infinite organized, semi-organized, "as if organized groups" or social systems into which the total human population is divided and structured.

Thus on the basis of differentiation, the social systems can be classified in the following ways:

- Unibonded groups
- Multibonded groups

UNIBONDED GROUPS

GROUPS

members bound in a solidary system by one main value or interest values

Biosocial
values of

Socio cultural
values of

Race Sex Age

National & ethnic
groups

State i.e.
Government

Economic
Groups

Ideological
cultural

Nominal
groups

Kinship

Territorial
Proximity

Occupational
Groups

Religious
Groups

Political
(ie elite)Parties

Social
Classes

Family
Clan &
Tribe

Nations

Caste

Social
Order
(Estates)

Source: Vol.14 (Encyclopedia of Social Science)

Thus, caste by itself is regarded as a multibonded grouping.

Commenting upon the process of development of social differentiation, Herbert Spencer had argued that it is "characters of social bodies, as of living bodies, that while they increase in size they increase in structure..... At first the unlikeness among (society's) groups of units are inconspicuous in number and degree but as population augments, divisions and subdivisions become numerous and more decided progressive differentiation of structures is accompanied by progressive differentiation of functions."

Thus, this degree of functional differentiation became the means of social differentiation. This fact of functional division was a basis of origin was reiterated by the American sociologist Cecil.C. North in 1926. A view which is endorsed by Talcott Parsons, who with the same underlying emphasis treated "social change and development" wholly as a process increasing social differentiation.

Thus within the multi bond group of the caste, each of the sacred quad has its own well defined (a) Status and (b) Role. Hence on broad parameters of intergroup social differentiation, the genesis of caste structure lies in the multi-bonded groups

8. SOCIAL STRATIFICATION

Thus implied and derived from basic foundational principle of social differentiation is the concept of social stratification, as the socially

differentiated roles are assessed as being "higher" or "lower" in some scale of prestige. Borrowed by analogy from the earth science the term "social stratification has come into general sociological use only since 1940, although matters which it refers have been discussed under the heading of social class".⁽³⁰⁾ Social differentiation that is, overlaps with social stratification which is the arrangement of groups and categories of individuals in a hierarchical order."⁽³¹⁾ Thus stratification within societies is one of the most important forms of differentiation. Such matters as relative moral worth, relative equality and inequality, and degrees of justice and injustice are often involved in the concept of social stratification.

There are some other dimensions to social stratification which can be listed as below:

- : Power
- : Occupational Prestige
- : Income/Wealth
- : Education and Knowledge
- : Religious and Ritual purity
- : Local community status

Social stratification accordingly takes two popular forms, that of class and caste. In the definition of class, their economic basis have generally been recognized, yet many disagreements have arisen as a result of attempts to define social class. A major problem is that of

choosing between a definition of class that would make it possible to apply the concept to all forms of society, - ancient city states, early empires, caste society, and feudal society as well as to modern capitalist society - while taking into account the specific characteristics of each of these forms, and a definition that would confine the concept of the social divisions in modern societies, treating other forms of society as having quite different kinds of stratification, arising from other factors besides the ownership of property. This problem can be possibly solved through reference in an unfinished chapter on social classes in *Das Capital*, where it appears that Marx's intention was to confine the use of the term class to the "three great classes of modern society": wage labourers, capitalists and landowners."⁽³²⁾

Apart from class, stratification lends itself to another concept, i.e. that of caste. Caste stratification is usually defined as ;" moral systems that differentiate and rank the whole population of a society in corporate units (castes)generally defined by descent, marriage, and occupation. :This system of stratification has developed especially in the regional societies of India and among adjacent Hindu and related populations in the territories of modern Pakistan, Bangladesh, Nepal and Sri Lanka."⁽³³⁾

Thus this form of stratification "leads" into broad division or strata, that form a hierarchy of wealth, power and prestige. Such strata are

marked off from one another by special rules of behaviour or forms of subculture, which are to a greater or lesser extent obligatory upon all the members of the stratum, and which give them a graded access to goods (such as wealth, power and prestige) that are valued by everybody in society."⁽³⁴⁾

C. SOCIAL DISCRIMINATION

It is widely and commonly held perception, that structured within the whole concept of caste was the sense of "Discrimination". Thus, in purely dictionary meanings, discrimination is "a faculty of nicely distinguishing acute discernment, " and it is also "an unfair or injurious distinctions." The discrimination may be of three types.

- (i) Normative discrimination (i.e. legal or customary application of standard) such as that between an adult and the child and is one governed by the standard rule of seniority.
- (ii) Social discrimination (i.e. deemed invalid by many members of a society because it violates primary customs and laws, and yet is regarded as acceptable by significant sub groups and supported by secondary norms.
- (iii) Individual discrimination (i.e. unsupported act of differentiation)

Thus, it is then the discrimination of the second type which has some degree of social acceptance, and is seen as "the persistent application of criteria that are arbitrary, irrelevant, or unfair by dominant standards, with the result that some persons receive an undue advantage

and others, although equally qualified suffer an unjustified penalty "in other words, the unequal treatment of equals. ⁽³⁵⁾" On the basis of the above study, therefore, discrimination is seen as an analytic concept, and not a moral term.

The entire conceptualization of discrimination comes with the inbuilt tendency towards prejudice, French 'prejuge', German Vorurteil and Portuguese 'preconceito'. " Prejudice can be defined as an inner tendency to respond to persons on the basis of their group membership; it is a rigid, emotional prejudgment that gives the individual confidence that he knows all about a person when his membership in a symbolically important group each individual has many attitudes, only some of which will be expressed in a given situation. thus, his prejudice may be inhibited, deflected, or manifested depending upon the context."⁽³⁶⁾

The forms of discrimination are hence as various as the criteria on which they are based. Possibly the three most important types of discriminatory processes are :

1. restriction on social mobility (denial of opportunity)
2. restriction on physical mobility (segregation)
3. barriers to the acquisition of full self respect and intra psychic harmony (as demands for arbitrary status deference)

These forms of discrimination often occur together, and are mutually reinforcing, but they may be found separately.

All the above sociological concepts however are irrelevant, and understandable if the basic premise of "Identification" is ignored.

The overarching umbrella to all above concept is provided by that of Identification (The term Identification derives from the Latin Idem, implying sameness or continuity. The terms Identification was first introduced in its psychodynamic tradition by Sigmund Freud in 1899 who defined it as that "..... identification is not simple imitation by assimilation on the basis of a similar actiological pretension, it expresses, a resemblance and is derived from a common element which remains in the unconscious⁽³⁷⁾.

Later, Freud in his "Group Psychology & The Analysis of the Ego" (1921) gave three levels of identification. The third level "may arise with every new perception of a common quality shared with some other person who is not an object of the sexual instinct⁽³⁸⁾. This perception found a credible acceptance in social systems and thus by extension the term has come to denote certain relationships of person to social roles and social groups. This perception found acceptance in academic circle through sociological study of Identity through, linked to the complex of symbolic interactionism, emerging from the pragmatic theory of self discussed by William James (1892) & George Herbert Mead (1934). And through sociological studies of H.M. Johnson, who elaborated the concept

of Identification as -- "One is said to identify with a social role if one not only internalizes the role but adopts it as one's own, striving to attain the necessary skills and to conform with the role norms. One is said to identify with a social group if one internalizes the role system of the group and considers oneself a member of it."⁽³⁹⁾

Thus, Erving Goffman & Peter Berger, in 1966 (p.116) said that identity is clearly seen to be "socially bestowed, socially sustained and socially transformed."

Thus from its beginnings in psychology, the identification process came to be applied in sociological understanding of group formations and identification drives. This norm of sociological identification is based upon the dual aspect of (a) role and (b) group

Thus it was the group affiliation and attendant contingent role which was critical to social formation of caste in ancient India. Thus within the role model and group behaviors dimensions there emerged the sacred quad of

- Priests/Educators : Brahmins
- Warriors/Kings : Kshatriyas
- Merchants/Artisans : Vaisya
- Servitors/Manual labourers : Sudras

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CHAPTER-IV

THE SYSTEM APPROACH : VARNA

The term Systems is defined as "anything formed of parts placed together or adjusted into a regular and connected whole⁽¹⁾; This conceptualisation of the system is an approach which is applied to all academic disciplines and branches of study, be it astronomy, geological time period, pertaining to body systems, to systems engineering which uses information theory and systems analysis to design integrated systems, to something as a computer software programme.

This kind of Systems Approach to management appeared in the 1960's and was an attempt to unify the earlier schools of thought, and according to Cleland and King, "A system is composed of related and dependent elements which, when in interaction, form a unitary whole".⁽²⁾

An extremely pertinent question that arises is - "How is a School of Management can be applied to a Social system and order?" It would be suffice to say that - "A system viewpoint may provide the impetus to unify management theory. By definition it could treat the various approaches, such as the process, quantitative and behavioural ones, as subsystems in an overall theory of management. Thus the systems approach may succeed where the process approach has failed to lead management out of the theory jungle."⁽³⁾ The systems theory follows a simple procedure which

has become an intrinsic part of scientific analyses, and includes at least three stages:

- i) An identification of components or elements of the system;
- ii) A specification of the characteristics of components; and
- iii) in a diachronic sense, a specification of the set of laws in conformity of which one state of a system succeeds or precedes another, or with which elements of the system interact with regard to the characteristics specified in the first two.⁽⁴⁾

Hence the Systems Approach has the following characteristics as:

- i) A system is goal oriented
- ii) A system consists of several sub-systems which are inter-dependent and inter-related
- iii) A system is engaged in processing or transformation of inputs into outputs.
- iv) A system has a boundary which separates it from other systems.
- v) An organization is an open and dynamic system. It is sensitive to its environment such as government policies, competition in the market, change in tastes of people, etc.

Thus, if the above mentioned are characteristics of a system, the same characteristics are evident in the Varna Order, argued on a point to point basis:-

- i) The goal of the Varna was to maintain order and smooth functioning of society.

- ii) The several sub-systems which were inter-related in Varna configuration were educational, legal and regulatory authority, economic functioning and the tertiary sector of providing services.
- iii) The inculcation of competence and ability helped to put objectives into actionable works.
- iv) Each sub-system was marked by its rules of conduct, procedure and regulation.
- v) The system was dynamic and given adaptation to prevailing contemporary socio-political-economic challenges.

Hence the Varna society must be studied in and as a "Systems Approach" to social problem of structuring and functioning of a diversity of groups or sub-systems in a civilizational context.

"Only recently it has been realized that it is equally imperative to understand problems of total organization, of wholeness, and of dynamic interactions of phenomena... This line of thinking has had a significant impact on inter-disciplinary research since it has helped to promote unitary concepts and isomorphic laws in different areas of science, i.e., a common application of structurally uniform and quantifiable analytical schemes to total observable phenomena of the universe has become possible."⁽⁵⁾

It is interesting to note that although the orders of Hindu society are mentioned in the Rig Veda, there is no single term to describe them. A term which originally referred to the distinction in colour and appearance between the Arya and Dasyu was later on used as the referencer to the hierarchical division of society.

The Systems approach to the entire functional sphere was given by 'Varna'. The term Varna is open to various meanings. The earliest literary text, the Rig Veda defines Varna at two levels -- the first being that regarding colour of the face (especially good colour) and relating to complexion, and the second, in the sense of class of men, tribe, order and caste. The former meanings can be adduced from the following hymns --

The Rig Veda thus says:-

त्वे अग्ने सुमतिं निक्षमाणा दिवि श्रवो दधिरे यज्ञिवासः ।

नक्ता च चक्रुषसा विरूपे कृष्णं च वर्णभरुणं च सं धुः ॥⁽⁶⁾

which translates as follows:

"Agni, with thee, soliciting thy favour, the holy ones have gained glory in heaven. They made the Night and Dawn of different colours, and set the purple and black hues together."⁽⁷⁾

एवा पयस्व मदिरो मदावो दग्नाभस्य नमयन् वधस्त्रैः ।

परि वर्णं भरमाणो रुशन्त गण्डुर्नो अर्षं परि सोमं सिक्तः ॥⁽⁸⁾

In a hymn devoted to soma, the above verse translates as --

"So flow thou on inspiring, for rapture, aiming death shafts at him who stays the waters,

Flow to us wearing thy resplendent colour, effused and eager for line, o Soma."⁽⁹⁾

A similar reference to Varna as colour or complexion is contained in the verse below:-

गोमन्न इंदो आश्ववत् सुनः सुदक्ष धन्व ।

शुचि ये वर्णमथि गोषु दीधरम् ।†⁽¹⁰⁾

which reads as follows --

Flow to us, Indu, passing strong, effused, with wealth of kine and steeds:

I will spread forth above the milk of thy radiant hue.⁽¹¹⁾

This association of Varna with colour and pigmentation is further repeated in Rig Veda X.124.7. The association of Varna is not just with colour, but Varna also, referred to in the same text, in the sense of a class of men and tribe. It says

ओ त्वे नर इन्द्रमुतये गुर्वू चित तान् त्साद्यो अध्वनो जगम्यात् ।

देवासीँ मन्थुं दासास्य श्चमन्न तेन आ वक्षन् त्सुदिताय वर्णम् ।†⁽¹²⁾

This verse translates as follows

"These men have come to Indra for assistance: shall he not quickly come upon these pathways? May the gods quell the fury of the Dasa, and may they lead our folk to happy fortune."⁽¹³⁾ Again the Rig Veda states

विश्रयन्तामुर्बिया इमाना द्वारो देवी : सुपायणा नमोमि : ।

व्यधरवतीरिं प्रथन्तामजुर्या वर्ण पुनाना यशसे सुवीरम् ।।⁽¹⁴⁾

which translates as --

"Wide be the doors, the Goddesses, thrown open, easy to pass, invoked, through adorations. Let them unfold, expansive, everlasting, that sanctify the class famed, riches in heroes."⁽¹⁵⁾

The sense of Varna as a group or class of people is testified to in the verse mentioned below

प्र कृष्टिहेव शूष एति रोरुव दसुर्य वर्ण नि रिणीति अस्य तम् ।

जहाति वग्निं पितुरेति निष्कृत मुपप्लुतै कृणुते निर्णिजं तना ।।⁽¹⁶⁾

Which reads as --

"Strong, bellowing, he goes, (life) one who slays the folk; he lets this hue of Asuras flow off from him,

Throws off his covering, seeks his father's meeting-place, and thus makes for himself the bright robes he assumes,"⁽¹⁷⁾

Thus, the other sense in which Varna is employed is in reference to a class or group of people referred to as Dasa or Asura, and known by the colour of their skin.

In the Mahabharata, Varna, relates to the configuration of colour, tint, dye, pigment (for painting or writing).

The Manu Smriti also uses it in the dual sense of colour and pigment and class/group of people. The text says:

अवेदयानो नष्टस्य देशं कालं च तत्त्वतः ।

वर्णं रूपं प्रमाणं च तत्समं दंडमहि ।।⁽¹⁸⁾

This is translated as:-

"Failing to give the correct colour, size and description of the lost article which he has claimed, as well as the time and place of its loss, the king shall fine him its equal value in money."⁽¹⁹⁾

Thus, in the above mentioned verse, Varna is indicative of the colour and quality of pigmentation. In (this) similar sense it is used again in the following verse:-

विनितैस्तु व्रजेन्मित्यमाशुगैर्लक्षणांश्चितैः ।

वर्णरूपोपसंपन्नैः प्रतोदेनातुदम्भशम् ।।⁽²⁰⁾

And this verse is translated as following --

"He shall travel by horses or elephants that are fast going, quiet, handsome and good coloured animals, possessed of auspicious features, sparing the mace or whip as much as possible."⁽²¹⁾

Thus giving his interpretation on Varna, Dipankar Gupta⁽²²⁾ exporates that, "what is interpreted as 'fair skin' in the Vedas could easily mean, and most probably did mean, "light", in which case it was not a matter of skin complexion but of knowledge (fig Veda IX.71.2). Gupta goes on to say

that it is possible that Varna as a group and colour are related to each other, and he says, "Each order was supposed to have a colour pennent of its own as they represented different phases of the sun's journey around the earth. The rising sun, the grandest of all, was red, and this was the colour given to the ruling Kshatriyas. Brahmins were signified by the colour white because that was supposed to be the colour of the sun at noon. Vaisyas were yellow because that is the colour the sun took in the East, and finally Sudras were blue, for that was the hue of the setting sun."

However, despite the fact that Manu does denote Varna as colour, the overwhelming delineation of Varna is in the sense of a social order, which is referred to as caste. The overwhelming evidence from the time of Rig Veda refers to Varna, a social order, in all its formulations, i.e. as that of four fold grouping of a hierarchical order, and, that of a mixed castes (Varnasamkara) arising due to intermarriage.

In the sense of the Social Order Manu says:-

एषा धर्मस्य वो योनिः समासेन प्रकीर्तिता ।

संभवस्वास्य सर्वस्य वर्णधर्मान्निबोधत ॥

This is translated as -

"Thus has been briefly described the source of virtue, as well as the origin of all (the universe). Now hear me describe the respective duties of the different social orders."⁽²³⁾

The verse (VIII 142) gives the number of the castes as four, in the following verse,

द्विकं त्रिकं चतुष्कं च पंचकं च शतं समम् ।

मासस्य वृद्धिं गृहणीयाद्वर्णानामनुपूर्वशः ॥

This is translated as-

Interests shall be charged from the members of the (four) social orders in the order of their enumeration at the rates of two, three, four, and five panas for a hundred panas, per mensum,⁽²⁴⁾

The same aspect of the four Varna orders is also referred to in Manusmriti XI,139; so also in VII,35, and X,57.

These social orders had a graded hierarchy, as is evident from the passage which says,

अर्थानर्थविधौ बुद्ध्या धर्माधर्मौ च केवलौ ।

वर्णक्रमेण सर्वाणि पश्येत्कार्याणि कारिणाम् ।⁽²⁵⁾

The above mentioned verse indicates a graded hierarchy of castes as it says-

" Bearing in mind the good (of the protection of subjects) and the evil (of their destruction), and piety (justice) and impiety (injustice) along, (so that they may not clash with each other), the king shall attend to the judicial matters in court, and take up cases in preference to the caste of the suitors.⁽²⁶⁾ And within this hierarchy of caste the Brahmana was the

superior, as Manu says, "By the excellence of his specific duties, by the loftiness of his birth(from the face of Brahma), and by his comprehension of the Vedas, the Brahmana is the lord of the castes."⁽²⁷⁾ This rationale is provided by the verse mentioned below.

वैशेष्यात्प्रकृतिश्रेष्ठ्यनियमस्य च धारणात् ।

संस्कारस्य विशेषाच्च वर्णानां (ब्राह्मणः) प्रभुः ॥⁽²⁸⁾

The very fact that Varna was a social order, is proved by the fact that it was given social flux and constant movement as is clear from the reference to intermixture of the original four groups . Manu suggests-

स महीमखिलां भुज्जराजर्षिप्रवरः पुरा ।

वर्णानां संकटं चक्रे कामोपहतचेतनः ॥⁽²⁹⁾

(That foremost of King (Vena), having enjoyed the whole earth, within mind clouded by erotic feelings, introduced this custom (procreation of children under appointment on another's wife) of yore among men which led to the inter mixture of castes).⁽³⁰⁾ This point of social dynamics of a social order is once again mentioned in Manusimriti II,18 and X,31

Thus, from the cumulative evidence on Varna, it can be suggested with some degree of reasonableness, that Varna, though initially may have been an aspect of colour distinction, but by the age of Manu [↓] was firmly

established as a social order with definitive basis; A point which was so firmly established that the Yajnavalkya Smriti begins with the verse-

योगीश्वरं याज्ञवल्क्यं संपूजय मुनयोऽब्रुवन् ।

वर्णाश्रमेतराणां नो ब्रूहि धर्मानशेषत ॥⁽³¹⁾

Thus ,Varna, the concept of a systems approach came to signify, a sub component of people organised into a hierarchical form. The basis of this varna system were in place by the age of Manu Smriti. This Varna order is referred to by modern social scientists as caste.

Another reference in context of caste which is freely associated by modern scholarship is that pertaining to the use of the term Jati. In the Aitreya Brahmana, jati refers to birth or production.

The Katyayana Srautra sutra, regards Jati in the sense of meaning of a position assigned by birth, rank, caste, family, race ^{lineage}. The Ramayana too refers to jati in the sense of rebirth. Manu and Yajnavalkya too see Jati as in the perspective of a position acquired by birth and family.

The Manusmriti says-

स्वर्गार्थमुभयार्थं वा विप्रानाराधयेत्तु सः ।

जातब्राह्मणशब्दस्य सा ह्यस्य कृतकृत्यता ॥⁽³²⁾

Which signifies-

" For the acquisition of heaven (after death), or both for heaven and a living let the Sudra serve the Brahmana, the significance of the turn Jata

Brahmana (literally born for serving the Brahmanas) which denotes a sudra, will be thereby fully realized."⁽³³⁾ In the Manusmriti, the term Jati is used in the sense of varna when it states:

जातिजानपदान्धर्माश्रेणीधर्माश्च धर्मवित् ।

समीक्ष्य कुलधर्माश्च स्वधर्मं प्रतिपादयेत् ॥⁽³⁴⁾

The King, cognisant of laws, and in consideration of the duties, of the (four) several orders of society, as well as of usages and customs of different localities, guilds, communities and facilities, (not incompatible with the doctrines of the Vedas) shall discharge his own duties (i.e. enact and enforce laws, recognising the valid authority of those customs and usages)⁽³⁵⁾.

Once again the Manu Smriti says-

उत्पादनपत्यस्य जातस्य परिपालनम् ।

प्रत्यहलोकयात्रायाः प्रत्यक्षं स्त्रीनिबन्धम् ॥⁽³⁶⁾

which says, " Wife is the manifest source of procreation and bringing up of children, and of performance of the duties of everyday life as well."⁽³⁷⁾

And Manu on jati expounds:-

हरेन्तत्र नियुक्तायां जातः पुत्रो यथौरसः ।

क्षेत्रिकश्च तु तद्दीर्घं धर्मतः प्रसवश्च सः ॥⁽³⁸⁾

Meaning thereby-

"A son, begotten on one's wife by another under an appointment, shall take an equal share in the estate (left by him) like a son born of his own, inasmuch as the seed virtually belongs to the owner of the field (husband of the woman) in such a case, and the son thus begotten is his legitimate son."⁽³⁹⁾

Thus in all the above listed verses Jati in essence denotes the source spring, the genitor of, but never does it any way replace Varna as a system's component. Thus, if that is so can the Jati be equated with Varna; can the Varna which is called the caste be similar to Jati, also a caste. The question arises, that in a systems analysis of an organization, what is the point of reference, is it the Varna, or, is it the Jati ?

Thus in the law books Jati's point of reference with varna is not specified, causing confusion in the mind.

The Modern tendency to undervalue the Varna vis-à-vis Jati was initiated by Emile Senart (1894). Senart arrived at this conclusions on the basis of the following consideration.

- (a) You do not marry anywhere within your caste but marry within the subcaste.
- (b) The caste does not have judicial institutions, but the subcaste has.

Hence Senart arrived at the conclusion that "it was the subcaste, the endogamous unit and framework or organ of internal justice, which was

the fundamental institution and which in all logic ought to be called scientifically the true caste."⁽⁴⁰⁾ Thus for Senart "these (classical) varnas represent an arbitrary expression in an older (Vedic) language of reality which had become basically different."⁽⁴¹⁾

Prof. G.S. Ghurye, agrees with Senart and writes - "There is ample reason why to get a sociologically correct idea of the institution, we should recognize subcaste as real caste."⁽⁴²⁾ In the very next line he strengthens his view point by saying " for the status in the hierarchy of any sub caste depends upon the status of the caste, from which follow various civil and religious rights and disabilities, and the traditional occupation is determined by the nature of the caste. The other three features, which are very material in the consideration of a group from the point of view of an effective social life, viz. those that regulate communal life and prescribe rules as regards feeding, social intercourse and endogamy, belong to the subcaste."⁽⁴³⁾ Ghurye derives support from the 1901 Bengal census (p. 351) and states ---- "Almost every caste is divided into a number of smaller groups which will only marry amongst themselves. Usually, these groups will not eat together and often they will not even take water from each other or smoke from the same 'hukka' These endogamous groups are generally known as subcastes. Each subcaste manages its own affairs quite independently of others, and in the caste of the lower castes each has its

own separate Panchayat or standing committee, by which all social questions are decided."

In this view of his Ghurye further derives support from the U.P. Census Report 1911⁽⁴⁴⁾ which states that "in Uttar Pradesh it is the subcaste that forms the unit of social organisation, and as such has its own council to look after its affairs quite independently of the similar councils of other subcastes. The same Report⁽⁴⁵⁾ goes on to mention, further, inter-dining and inter-drinking are restricted to the group which is endogamous. Thus Ghurye arrived at the conclusion that "Stated generally, though it is the caste which is recognised by society at large, it is the subcaste which is regarded by the particular caste and individual and concluded by asserting that , "There is ample reason why, to get a sociologically correct idea of the institution, we should recognize subcastes as real castes."

There is yet another school of thought which is opposed to the above the view point, which essentially regards endogamy as the chief characteristic of a caste and hence treats all the subcaste as the real caste. Gait advances two reasons against this process of raising subcastes to the states of real castes as "it would be contrary to the native feeling on the subject," and would be "highly inconvenient in practice, as it would create a bewildering multiplicity of castes."

Gait further goes on to say, "As regards the Indian sentiment against making a subcaste into a caste, it must be pointed out that at best, this is the representation of only one side of the problem, for if, we confine ourselves to the Maratha country, a Saraswat Brahmin is known to outsiders as a Saraswat, to a Saraswat he is better known either as a Shenoi or as a Sashtikar or Padnekar. Stated generally, though it is the caste which is recognized by society at large, it is the subcaste which is regarded by the particular caste and individual."⁽⁴⁶⁾

Thus the sociological reality is the caste (i.e. Varna).

Irawati Karve opposes Prof. G.S. Ghurye and holds that castes result from aggregation. of subcastes, rather than subcastes from the subdivision of castes, and more generally perhaps that castes result from the fusion of diverse groups, rather than the scission of pre-existing groups.⁽⁴⁷⁾ Karve writes, "The various endogamous groups are not products of fission, but seem to have been independent and of different origin."⁽⁴⁸⁾ Karve has described a number of castes (i.e. jati) belonging to different caste-cluster (i.e. Varna) in Maharashtra as that of the Maratha - Kunbi, Brahmin, Kumbhar and Mahar. She further adds that the "..... description will show how each caste within a caste-cluster differs from the other castes in its traditions and the regions it occupies."⁽⁴⁹⁾

And Karve writes- " In any village if one asked casually about the different resident castes (Jati), one normally gets an answer only the occupation names, eg. Sutar (Carpenter), Lohar (Iron Smith), Koshti (weaver) and so on. If one asks further about any particular caste then one gets the full information about particular endogamous unit to which the local followers of the particular craft belong. It is this phenomenon which is partly responsible for the introduction of the word Sub-Caste and deserves closer consideration." ⁽⁵⁰⁾ "Thus as Louis Dumont says: Karve" only develops Ghurye (and Senart) in giving reality to the sub caste as against the caste"⁽⁵¹⁾ and regards that although Karve started in opposition to Senart but confused the issue.

Another writer who believes in the Varna as being a structural point of reference is E.A.H. Blunt. Writing in the Caste system of Northern India with Special Reference to the United Provinces of Agra & Oudh' (1931) he states in Chapter III to the relativity of the whole term.

Blunt rejects Senart argument of primacy to the sub caste on the virtue of two arguments : first, endogamy is less⁽⁵²⁾ rigid at the level of sub caste than at that of the caste (this is in Uttar Pradesh where inter-marriage is sometimes tolerated in certain directions between different sub castes); one must adapt to the ideas of Hindu Society. If one asks someone 'What is your caste? (Jati) he may indicate either which of the four Varnas he

belongs to, or a caste title, or his caste or his sub caste, or even the exogamous section (Clan) to which he belongs”.

Dumont goes on to argue that the above conversational sequence is strictly accurate: a matter of situation no doubt but Jati (caste) connotes above all birth, the hereditary group, and while it corresponds mostly to endogamy and to bilateral transmission it in no way excludes unilateral transmission and exogamy. It is what is called a reference group to which I belong, and one must make it clear at what level the question is asked.”⁽⁵³⁾

S.V. Ketkar⁽⁵⁴⁾ also recognizes the structural nature of the caste group. Ketkar defines “a caste as a social group having two characteristics:

- (1) membership is confined to those who are born of members and includes all persons so born;
- (2) the members are forbidden by an inexorable social law to marry outside the group.

Each one of such groups has a special name by which it is called. Several of such small aggregates are grouped together under a common name while these larger groups are but subdivisions of groups, still larger which have independent names. Thus we see that there are several stages of groups and that the word “caste” is applied to groups at any stage. The words “caste” and “sub-caste” are not absolute but comparative in

signification. The larger groups will be called a caste, while the smaller groups will be called a sub-caste. A group is a caste or a sub-caste in comparison with smaller or larger. When we talk of Maratha Brahmin and Konkani Brahmin, the first one would be called a caste while the latter would be called a sub-caste; but in a general way both of them might be called castes. Maratha Brahmins in their turn would be called a sub-caste of the southern or Dravidian Brahmins.”⁽⁵⁵⁾

L.S.S.O’ Malley : in echoes the Ketkar findings when he says “Each division (of caste) has “Social Value” in relation to other divisions.”⁽⁵⁶⁾

A.C. Mayer⁽⁵⁷⁾ indicated the fluctuations in anthropological usage of the term and writes “There are two levels of definition both for the caste and sub-caste. The first is in terms of their “total” population, and concerns the formal definition considered in most of the literature on caste. The second, on the other hand, is the level of the effective Caste group and sub-caste group; and here we step down to purely local relationships.”

Dumont quoting Mayer writes, “The relations between different castes are in practice contained within the village: a barber is employed as such, and not as a member of such and such a sub caste of the caste of barbers; the effective caste group is thus the populations of the caste in a single village. Relations within the caste are, on the contrary, mainly those within the sub caste: one leaves the village as a member of one’s subcaste

for marriage & justice: the 'effective subcaste group' corresponds to a regions formed by a large or small number of villages, which may be much smaller than the area over which the whole subcaste is distributed and which corresponds to the circle of recognized kin relations)..... Shows us how the theory of caste is combined in act, at the level of effective relations, with the territorial factor, and that this is due to the segementary character of caste, permitting different functions to be attached to different levels of phenomenon.⁵⁸⁾

Thus in order to study structural disabilities, it is Varna which becomes the point of reference. And would like to conclude by the reference to Max Weber, in *The Religion of India* (1958) still often translates Varna by 'Caste' and not Jati as Caste. The fact that Varna was and is still the functional point of reference is lucidly given by McKim Marriott⁽⁵⁹⁾ who discusses Varna as a point in the 'multiple reference' in the caste system. This is studied at the level of "three successively large zones, each of which has its differing ordering of categories." The most basic level is the village zone where the relevant categories are caste ranks (ie jati) Caste ranks are established most directly by the local degrees of relative ritual dominance exercised among the particular local groups which represent their caste as corporate bodies. The relative rank of a caste may vary somewhat from village to village, and instances of such

variation may be known to residents of each village, nevertheless, the rank of a caste is conceived as being properly uniform, so that known variants tend to be argued out in each locality as cases are applied in a court to the interpretation of general law.

The second zone is the "recognized cultural or linguistic region" where the rankings usually include notions as to the relative standings of clusters of separate, but similarly named or occupied whole caste, often grouped further within categories of rank, "such as lord-servant of North India, water-bearing and non water bearing categories of Bengal, and light and dark people of Gujarat.

The third zone is the "civilisation zone" which has "categories of universal scope" ranked according to the classical Varnas into Brahman, Kshatriya, Vaisya and Sudra.

Mckim Marriot, acknowledges that the discussion on Varna and Jati is not simple but extremely complex. However, if Varna is a pan-Indian phenomenon, compatible with the systems approach, then it is Varna which becomes the reference point and not jati. A back handed compliment to the nature of Varna as a systems conceptualisation is given by M.N. Srinivas⁽⁶⁰⁾, when he writes, "the Varna scheme has certainly distorted the picture of caste but it has enabled ordinary men and women to grasp the caste system by providing them with a simple and clear scheme

which is applicable to all parts of India. Varna has provided a common social language which hold good, or is thought to hold good, for India as a whole. A sense of familiarity even when it does not rest on facts, is conducive to unity.

In the final point, it would suffice to say, that in the Systems approach to a social grouping, the Varna is the main point of reference as "the Indian social set up and social dynamics were characterized by a central unity which refused to surrender itself completely to regional or temporal variations". Prof. Bhattacharya⁽⁶¹⁾ has advanced various arguments on this account for the following reasons,

- (i) the varna division was not just a theoretical model, it had an actual structural bearing on society; as it provided the primary basis of social divisions, the peg to hang on the smaller social units.
- (ii) Whether it was caste- cluster or sub-caste, the social position of a group had to be recognised, particularly at the ritual level, by reference to its situation/ varna hierarchy.
- (iii) The importance of the Varna divisions for any group seeking entry into the main society is proved by expressions as *Brahmana Kritah*, *Kshatriya Kritah* etc. found in Panini for the integrated external groups, and the *Brahmnavratya*, *Kshatriyavratiya* etc. in Manu. Even the social distance of the *Antyajas* from the main society was measured by their relationship with different Varna divisions through parentage.

- (iv) The concepts of Varnasamkara, antyaja, vratya etc. developed out an awareness of the inadequacy of the Varna theory.
- (v) The system of law and theory of punishment was largely Varna based. The amount of punishment were decided on the basis of the Varnas of the offender and the victim.

Thus although the Varna theory was not a complete statement of social grouping, yet it provided the crucial fulcrum upon which rested the entire approach to a civilizational system.

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CHAPTER-V

THE SUB COMPONENT- I FUNCTIONS

In this Chapter there is an attempt to explain the 'actionable' element of the sub-element of Varna within the 'larger' organisation of the civilization. If seen within the frame work of the varna society, functions demanded in order to be activated the assignment of duties. This leads us into the necessity to define the term duty.

Roget's Thesaurus explains that the word duty has an origin in late middle English and can be defined as task, function, work. The word itself derives from Anglo Norman French 'duete', and from old French 'dev', in all implying the following:-

- (a) a moral or legal obligation; a responsibility.
- (b) a task or action that someone is required to perform
- (c) a payment due and enforced by law or custom, in particular⁽¹⁾.

Any reference to duties and abilities as far as the varnas/castes is concerned begins with the primary reference to hierarchy. The varna hierarchy which is allowed to in the Purusasukta hymn (Rig Veda X.90). The reason why hierarchy becomes the central focus in caste description is as 'it is none other than the conscious form of reference of the parts to the whole system'⁽²⁾. Thus hierarchy becomes the starting point as this is more conscious rather than what is less conscious

division of labour and hence varna is the fulcrum of the entire systems approach. Therefore, arises the question of defining hierarchy. The Shorter Oxford Dictionary discusses under " hierarchy " the various element of -

- (1) each of the three divisions of angels.....
- (2) rule or dominion in holy things.....
- (3) an organised body of priests or clergy in successive orders or grades
- (4) a body of persons or things ranked in grades, orders, or classes, one above the other

Thus in its original sense "hierarchy" can be concerned with religious ranking"....., any idea of command being left, aside, the religious way of seeing. Things requires a classification of beings according to their dignity. Yet the presence of religion is not indispensable, for the same applies whenever the differentiated elements of a whole are judged in relation to that whole..... So we shall define hierarchy as the principle by which the elements of a whole are ranked in relation to the whole, it being understood that in the majority of societies it is religion which provides the view of the whole, and that the ranking will be religious in nature"⁽³⁾ (P.19 LD)

The Varna scheme is a "hierarchy" in the literal sense of the term because ritual considerations form the basis of the differentiation. It is true that generally speaking the higher castes are also the better off

castes, and the lowest caste are amongst the poorest, but a ranking on principally economic or political considerations would produce a stratification somewhat different from that based on ritual considerations." ⁽⁴⁾This statement in fact admirably sums up the modern sociological perspective on caste and its hierarchical stratum.

In India, this organisational hierarchy took the form of the Varna order. The caste system as an organisational principle is unique to the Indian sub - continent. The origin of the caste is traced to times of hoary antiquity, of the Purusamedha sacrifice. The Rig. Veda (10.90) known as the Purusasukta hymn states,

तं यज्ञं बर्हिषि प्रौक्षन् पुरुषं जातमग्रतः ।

तेन देवा अयजन्त साध्या ऋगम्व थे ॥

"They balm'd as victim on the grass purusa born in earliest time.

With him the Deities and all Sadhyas and Rsis sacrificed."

यत् पुरुषं व्यदुथः कतिधा व्यकल्पयन् ।

मुखं विवस्वतो बाहुका ऊरु पादा उच्येते ।

L.11: "When they divided Purusa how many portions did they make?"

ब्राह्मणोऽस्य मुखमासीद्बाहू राजन्यः कृतः ।

ऊरु तदस्य यद्वैश्यः पद्भ्यां शूद्रो अजायत ।

L.12: The Brahman was his mouth, of both his arms was the Rajanya made. His thighs became the Vaisya, from his feet the Sudra was produced.

L.13: The moon was gendered from his mind, and from his eye the sun had birth. Indra; and Agni from his mouth were born; and Vayu from his breath.

L.14: Forth from his navel came mid air, the sky was fashioned from his head;

The above mentioned reference is the only allegory to the four castes in the Rig. Veda.

The Apastamba Dharmasutra⁽⁶⁾ states in verse I, 4.

--"(There are) four castes _ Brahmanas, Kshatriya, Vaisyas and Sudras".

This very sentiment is echoed in Manu ⁽⁷⁾ who ordained that:

लोकानां तु विपृद्वर्त्य मुखबाहुरुपादत : ।

ब्राह्मणं क्षत्रियं वैश्यं शुद्रं च निश्चर्तयत् ॥

"But for the sake of prosperity of the worlds, he caused the Brahmanas, the Kshatriya, the Vaisya, and the Sudra to proceed from his mouth, his arms, his things and his feet."

To all the four orders were also assigned specific duties. But before defining the special duties of the four varnas, there were certain tasks/duties/obligations which were common to all the twice born (dvijas) which are mentioned in the Gautama Dharmasutra⁽⁸⁾ as follows

-- '(The lawful occupations common) to (all) twice-born men are studying the (Vedas), offering sacrifices (for their own sake), and giving (alms).'

-- The above mentioned triad of duties were common to all Varna, which is mentioned in the same Dharma Sutra also. But of special importance to the Brahmanas, were enjoined the following functions.

"Teaching, performing sacrifices for others and receiving alms (are) the additional (occupations) of a Brahmana."⁽⁹⁾ The same text goes on to qualify in the next verse which follows- "But the former three (as mentioned in X.1) are obligatory on him."⁽¹⁰⁾

The Manusmriti⁽¹¹⁾ mentions the similar six legal occupations for the Brahmana varna as:

"To the Brahmanas he assigned teaching and studying (the Veda) sacrificing for their own benefit and for others, giving and accepting (of alms)"

Next in hierarchy, immediately following the Brahmanas were the Kshatriya. The duties of the Kshatriyas is given by Gautama⁽¹²⁾ is as stated in seven consecutive verses as:-

"To protect all created beings is the additional occupation of the king.
And to inflict lawful punishments.

He shall support (those) Srotriyas, (who are) Brahmanas,
and the people unable to work (even if they are not Brahmanas)

And those who are free from taxes

And (needy) temporary students.

And (to take) measures for ensuring victory (is another duty of a king)"

The Manu Smiriti⁽¹³⁾ states about Kshatriya duties as - "The Kshatriyas he commanded to protect the people, to bestow gifts, to offer sacrifices, to study (the Veda), and to abstain from attaching himself to sensual pleasures."

The third rung on the hierarchical ladder was occupied by the Vaisya whose obligations are delineated by Gautama⁽¹⁴⁾ "The additional (occupations) of a Vaisya are, agriculture, trade, tending cattle and lending money at interest." The entire gammut of duties of the Vaisya are likewise enumerated by Manu⁽¹⁵⁾, who enjoins upon the "The Vaisya to tend cattle, to bestow gifts, to offer sacrifices, to study (the Veda), to trade to lend money, and to cultivate land."

The sudras, who emanated from the feet, of Purusha, provided the terra firma of the Varna hierarchy. Likewise, as for other castes the classical texts are in complete unanimity on the duties of the Sudra. All the texts assign a single and same function to the sudras, that of "Susrusam anusuyaya." Gautama⁽¹⁶⁾ states for the Sudras and elaborates the functions as:

"And serve the higher (Castes)" and "From them he shall seek to obtain his livelihood".

Apastamba⁽¹⁷⁾ echoes a similar sentiment, when he remarks "To serve the other (three) castes (is ordained) for the sudras."

The above view is reinforced by Manu⁽¹⁸⁾ who defines the function of a sudra as "One occupation only the lord prescribed to the Sudra, to serve meekly even these other three castes."

The modern analysis on the caste duties is analysed as follows:-

- i) The Hindu world is made up of a number of castes;
- ii) Castes are closed social groups. One may marry within one's caste and the children of this union belong to the caste of their parents. It is in this way that the system is perpetuated ad infinitum.
- iii) Castes are hierarchically ranked on a purity pollution scale according to their traditional occupation. "Caste and families are, then, the building blocks of Hindu society. Membership of a caste is by birth ... castes reproduce themselves through endogamy, that is, marriage within a defined groups. Caste occupations are usually hereditary, particularly among artisan and service jatis." Each caste stands above or on par with others in a system of social ranking. While the top and bottom rungs of the social ladder are well defined and occupied by the Brahman and sudra castes, there is much competition for the middle positions. According to traditional caste ideology, which is obviously the brain child of Brahmins, the key to the rank lies in the notion of ritual purity."⁽¹⁹⁾

73
f. 100-101 above

The entrenched view on caste summed up in the (three lines) is at ?

best inadequate and at worst misleading, as there are more than one aspect of caste which cannot be explained by the three lines or simply and directly contradict it.

A different view however opines "Thanks to Hocart and, more precisely, to Dumezil, the hierarchy of the varnas can be seen not as a linear order, but as a series of successive dichotomies or inclusions. The set of the four Varanas divides into two : the last category, that if the sudras, is opposed to the block of the first three, whose members are 'twice born' in the sense that they participate in initiations, second birth, and in the religious life in general. These twice born in turn divide into two; the Vaisyas are opposed to the block formed by the Kshatriyas and the Brahmanas, which in turn divides into two.⁽²⁰⁾ Thus, the twice born 'dvijas' are vigorously characterised alike in virtue of a three fold common duty: study, sacrifice and gift: (adhyayanam ija danam)⁽²¹⁾. This aspect of the lack of linear structure in hierarchies is a perception which was already visualized in the classical texts which give common duties to the dvijas.

Similarly Manu reads⁽²²⁾:-

अध्यापनमध्ययनं यजनं याजनं तथा ।

दानं प्रतिग्रहं चैव ब्राह्मणानामकल्पयत् ॥

Study (of the Vedas), teaching, performance of Sacrifices, officiating as priests at other men's sacrifices, gift making and acceptance of gifts are the duties of Brahmanas.

प्रजानां रक्षणं दानमिज्याऽध्ययनमेव च ।

विषयेष्वप्रसक्तिश्च क्षत्रियस्य समासतः ॥

Protection of the people, gift-making, performance of sacrifices, study of Vedas, and abstention from luxury are, in general, the duties of Kshatriyas.

पशूनां रक्षणं दानमिज्याध्ययनमेव च ।

वणिक्पथं कुसीदं च वैश्यस्य कृषिमेव च ॥

Rearing of cattle (sheep, etc.) gift-making, performance of sacrifices, study (of the Vedas), merchandise, money-lending and agriculture are the duties of Vaisyas.

Thus Manu reiterates the common virtues alike for duties of the dvijas as sacrifice, study of Vedas and gift-making. It is on account of the commonality of duties and similarity of obligations that Dumont comments on this aspect of the lack of linear structure in hierarchies as a perception which was visualize in the classical text giving common duties to dvijas. "They differ in their sources of income, which correspond to Optional activities or occupations: in this field, the Brahmana has the privilege of teaching, performing sacrifices and gifts,

the Kshatriya of protecting all creatures, the Vaisya of living from the land, commerce, grazing and usury.It can be seen that the ancient conception has been preserved in its essentials: the order of increasing status comprises service, economic activity, political dominion, priesthood."⁽²³⁾

Thus service as a concept is the underlying basis of all activities,

(define service) For examples if correspondence/parallels are drawn

<u>Varna</u>	<u>Optional Activities</u>	<u>Nature in modern sense</u>
1. Brahmana	teaching, performing sacrifices for others receiving alms	educational and religious services
2. Kshatriya	protection of people and territory, maintenance of law and order to promote continuity and progress of society	police and regulatory services
3. Vaisya	Trade, finance, agriculture and animal husbandary	Agro-financial services
4. Sudra	In service to other caste	support services.

The division of castes, according to the social economists, has its basis, on the four broad, distinctive functions in the economy of the divine organism. The cogitative, the protective, the sustentative and the operative functions which are so vitally essential to the continuance of each individual organism; the living envelop of each individual Self or Jiva, must have their prototypes in similar functions of the divine body of Brahma, the direct motive principle of universal Evolution. A man,

or a being, in order to live, must think, and reason, and desire and work. He must have some faculty within him to anticipate his wants, to profit by the lessons of the past, to co-ordinate his innumerable relations with his environments, and to develop the deeper possibilities of his nature, and to this function or principle, which is governed by the laws of his prototypes being, the ancient seers gave him the eponymous name of Brahmanas. Similarly, there must be in man some function exclusively set apart for combating the hidden foes of his organism, to help accelerate a cure in the case of disease; an other function to store up and manufacture energy from the ingredients of nature and yet another function to ungrudgingly and unremittingly serve the other three functions in the discharge of their works i.e. to be at the beck and call of ideation (Brahmana), protectiveness (Kshatriya) and sustentative (Vaishya) functions. They respectively gave them the names of kshatriya (soldier) Vaisya merchant or farmer and sudra (artisan or servant). Sudratvam is held identical with karmatvam work, action or service. Originally a sudra implied service to mankind, although by an unfortunate degeneration of its meaning, it subsequently came to be synonymous with something low or vile.

As in the body, so in the body politic; as in the body politic so in the universal body politic, hence the relations of the Brahmana,

Kshatriya, Vaisya and Sudra, as being necessary for the furtherance of the common weal, like the classification of functions in the divine organism of which they are the exponents, to be externally existing in the social economy of man, whenever and wherever occurring.

Thus through the caste system, the authors of the texts, the seers, in one stroke solved the problem of capital and labour. This organization was not the outcome of monopolies or of /for vested interest or for in the objective of communistic enjoyment the authors. They realized that unqualified equality was impossible in society. Therefore, as the best possible alternative they promulgated a general equality in civic rights among individuals or equitability, and specific limitations of privileges as of class against class.

Thus all groups within the Varna order, were providing sustenance to the society through their efforts. "At the same time, with imperturbable logic, the sources of income, so far as they are optional, are subordinated to the religious ends, even if this involves what we tend to consider a contradiction, namely that the Brahmana, as compared to the other twice born, is characterised by inessential (optional activities), or even, so far as instruction and sacrifice is concerned, by service - albeit religious."⁽²⁴⁾

Once the whole conception of service was established, the need to follow their duty was constantly reinforced, as evident from Manu⁽²⁵⁾, who says:-

आचारः परमो धर्मः ऋत्युक्तः स्मार्त एव च ।

तस्मादस्मिन्सदा युक्तो नित्यं स्यादात्मवान्निद्वजः ॥

"The rule of conduct is transcendent law, whether it be taught in the revealed texts or in the sacred tradition; hence a twice born man who possesses regard for himself, should be always careful to (follow it)."

योऽयमन्येते वे मूले हेतुशास्त्राश्रयादिभिः ।

स साधुभिनहिष्कार्यो नास्तिको वेदनिन्दकः ॥

Thus duty was of supreme importance for the entire system and Manu once again establishes it as the correct procedure for a learned man. "But a learned man after fully scrutinizing all this with an eye of knowledge, should in accordance with the authority of the revealed texts, be intent on (the performance of) his duties⁽²⁶⁾ It may be inferred that duties were held sacred which Manu writes as follows

सर्वं तु समवेक्ष्येयं निखिलं ज्ञानचक्षुषा ।

श्रुतिप्रमाण्यतो विद्वान्स्वधर्मं निवेशेत वै ॥

वरं स्वधर्मो विगुणो न पाक्यः स्यनुष्ठिताः ।

परधर्मेण जीवन्ति सद्यः पतन्ति जातिताः ॥

"This translates as follows:(X.97)

It is better that one should live by doing the vile works allotted to this own castes than embrace the vocation of a superior castes for livelihood; living by adopting the vocation of another caste, one becomes degraded the very day." Since duties were of primary import, the initiation was no less important. Thus Manu and other texts talk about initiation of varnas into their duty obligations. Thus Manu writes

ब्रह्मवर्चसकामस्य कार्यं विप्रस्य पंचमे ।

राजे बलगार्धिनि : षष्ठे वैश्यस्येहार्धिनोऽष्टमे ॥

Hence, Manu⁽²⁷⁾ says, - "(the initiation) of a Brahmana who desires proficiency in sacred learning should take place in the fifth (year after conception), (that) of a Kshatriya, who wishes to become powerful in the sixth, (and that) of a Vaisya who longs for (success in his) business in the eighth." And the fact that training for their service obligation was so vital that "The (time for the) savitri (initiation) of a Brahmana does not pass until the completion of the sixteenth year (after conception), of a Kshatriya until the completion of the twenty second, and of a Vaisya until the completion of the twenty fourth⁽²⁸⁾."

However, on the basis of the above two verses it can be said that for the Brahmanas a leverage of eleven years for initiation into duty mould was provided for (i.e. the eighth difference between five years and sixteen years). Similarly, the Kshatriya have a period of sixteen

years during which they could be initiated, while for the Vaisya a similar time span of sixteen years. Within this entire system was inherent the idea is that the initiation began at the earliest age for the Brahmanas and secondly, the span for initiation was the least, while for the Kshatriya and Vaisyas although the timespan was an identical of sixteen years. But for the Kshatriyas it began at six years, and for the Vaisya two years later at eighth year of age. The logic behind such a system was that since the service of a Brahman pertained to learning and education, the mental conditioning and inculcation of mental control and discipline was of primary importance, formative years provided a mallable mind the mouldings of the attitude and intellectual conditioning of the senses otherwise which was infinitely impossible after adolescence. Hence the upper limit ended at sixteen years (the onset of youth) Running on the same logic the pursuit of martial arts and military tactics was equally important because it entailed similar physical, mental discipline thus initiation began at six years, but the time span was extended well beyond adolescence. Since, military prowess could only be refined when an individual body attained the full physical growth. However, since the economic service of the vaisyas demanded the necessity to understand and comprehend numbers and figures, hence

the lower limit was pushed upto eight years, with the same time span, as kshatriyas for sixteen years upto the twenty fourth year of life.

Thus an understanding about the importance to carry out their duties and the necessity of an ordered and organized society was constantly emphasized beginning with initiation into his duty role. Thus Manu⁽²⁹⁾ says--

अत ऊर्ध्वं त्रयोदश्यां यथाकालमसंस्कृताः ।

सावित्रीपतिता ब्राह्म्या भवन्त्यार्यविगर्हिताः ॥

After those (periods men of) these three (castes) who have not received the sacrament at the proper time, became vratyas (out castes), excluded from the Savitri (initiation) and despised by Aryans. One rational explanation of why Manu was forced to take such an extreme stance was that, since any youth did not identify with a sense of duty, and obligation, or with a certain group in society, his place in the systemic component was nebulous and rather than help in preserving the organic whole he would provide an internal conflict to the system, hence endanger the entire organization. This accounts for Manu's strong criticism.

पंचानां त्रिषु वर्णेषु भूयांसि गुणवन्ति च ।

यत्र स्युः सोऽत्र मानहिः शुद्रोऽपि दशमीं गतः ॥

अपाध्यायान्दशाचार्य आचार्याणां शतं पिता ।

सहरत्रं तु पितृन्माता गौरवेणातिरिच्यते ॥

सर्वस्यास्य तु सर्गस्य गुप्त्यर्थं स महाद्युतिः

मुखबाहुरूपजानां पृथक्कर्मण्यकल्पयत् ।

ऊर्ध्वं नभोर्मेध्यतरः पुरुषः परिकीर्तितः ।

तस्मान्मेध्यतमं त्वस्य मुखमुक्तं स्वयं भुवा ॥

Manu,⁽³⁰⁾ - "Every twice born man who relying on the Institutes of dialectics, treats with contempt those two sources (of the law) must be cast out by the virtuous, as an atheist and a scorner of the Veda. Thus as is evident non-compliance with the whole conception duties and the learning of duties meant excommunication from society itself. Hence duty and its pursuit was of primary importance, so that the subcomponents were set in motion so that the entire system could function smoothly.

Initiation was, therefore, the first step into the service of the elect. However, as discussed earlier non-compliance meant ostracism from that group but not from society itself.

Talking separately of the four Varanas, the superior most position was occupied/ assigned to the Brahmanas. The Mahabharatha⁽³¹⁾ states in- "In this body of Bharata this chapter is truth and ambrosia; as butter is among curds, and a brahmana among bipeds." Against the background of the origin myth in the Rig Veda which linked Brahmana

with the mouth of purusha, and with Soma and Agni. By the allegory to Agni, in all probability the parallels were sought to be drawn to the concept of visvavid (all-knowing); visvadvedas (possessed of all knowledge); kavi (sage); and kavikratu (possessing the intelligence of sages) and lastly, but not the least, because as a personification of the sacrificial fire he is more prominently the mouth by which the gods eat what is offered to them in sacrifice⁽³²⁾. Soma is alluded to as "a wise seer, a poet who stimulates thought and inspires hymns, and invigorates in his fight against ^V ~~Y~~tra (darkness)." [?] ⁽³³⁾

The qualities which are thus deemed as being ideal for a Brahmana are indicated below (Souti) [?] discoursing in the Mahabharata said that sage Dunduva addressing Ruru said "O, best of beings, the highest morality is "Not to destroy life" and Souti commenting in the Paulama Parva of the Adi Parva says, "Therefore, a Brahmana should never take the life of any creature. The injunction of the Sruti is that a Brahmana should always be mild⁽³⁴⁾." Also a Brahmana has to be learned in the Vedas and the Vedangas and an inspirer of confidence in all creatures, kind to all, truthful and forgiving⁽³⁵⁾."

Thus the qualities as being essential for a Brahmana are; non-violence, truth, forgiving, learned and inspirer of confidence in all creatures. Hence, as has been said about knowledge, amongst the Jews

the fear of God is the beginning of knowledge, and knowledge leads to humility and grace and not to pride and passion. This was the kind of abilities and virtues which were sought to be imbibed to the moral leaders in the system.

The Manusmriti says following things for a Brahmana:-

ब्राह्मणो जायमानो हि पृथिव्यामपि जायते ।

ईश्वरः सर्वभूतानां धर्मकोशस्य गुप्तये ॥

(36) "A Brahmana, coming into existence, is born as the highest on earth, the lord of all created beings, for the treasury of the law".

विद्या ब्राह्मणेत्याह सेवधिष्ठेऽस्मि एव माम् ।

असूयकाय मां मादास्तथा स्यां दीर्यवत्तमा ॥

(37) "Sacred learning approached a Brahmana and said to him: "I am thy treasure, preserve me, deliver me not to a scorner, so (preserved) I shall become supremely strong."

ब्राह्मस्य जन्मनः कर्ता स्वधर्मस्य च शासिता ।

बालोऽपि विप्रो वृद्धस्य पिता भवति धर्मतः ॥

(38) "That Brahmana who is the giver of the Birth for the sake of the Veda and the teacher of the prescribed duties becomes by law the father of an aged man, even though he himself be a child"

ब्राह्मणेषु च विद्वांसो विद्वत्सु कृतबुद्धयः ।

कृतबुद्धिषु कतरिः कर्तृषु ब्रह्मवेदिनः ॥

(39)⁴⁰“Of Brahmanas, those learned (in the Veda); of those learned, those who recognize (the necessity and manner of performing the prescribed duties); of those who perform them; of the performers, those who know the Brahman.

जप्यैनेव तु संसिध्योद्वबाह्मणो नात्र संशयः ।

कुर्यादन्यन्न वा कुर्यान्नैतो ब्राह्मण उच्चयते ॥

(40)⁴¹“But undoubtedly a Brahmana reaches the highest goal by muttering prayers only (whether) he performs other (rites) or neglect them, he who befriends (all creatures) is declared (to be) a (true) Brahmana.

यथा षण्ढोऽफलः स्त्रीषु यथा गोर्यपि चाफला ।

यथा चाज्ञोऽफलं दानं तथा विप्रोऽनृतचोऽफलः ॥

(41)⁴²“As a eunuch is unproductive with women, as a cow with a cow is unprolific and as a gift made to an ignorant man yields no reward, even so is a Brahmana useless, who (does) not (know) the Rikas.

यथा काष्ठमयो हस्ती यथा चर्ममयो मृगः ।

यश्च विप्रोऽनधीयानस्त्रयस्ते नाम विभ्रति ॥

(42)⁴³“as an elephant made of wood, as an antelope made of leather, such is an unlearned Brahman; those three have nothing but the names (of their kind).”

समानाद स्यादाताडिपि न परद्रोहकर्मधीः ।

ययास्योद्विजते वाचा नालोक्यां तामुदीरयेत् ॥

(43)⁴² A Brahmana should always fear homage as if it were poison and constantly desire (to suffer) scorn as (he would long for) nectar.

Thus it is clear that even in the Manusmriti the Brahmana is eulogized for his knowledge and pursuit of knowledge. This has to be combined with character traits as those of humility and love for all created things.

However, most certainly within this whole conception of duty and division of labour, the structure itself was not rigid, but allowed for interchange of functions provided that this was coordinated and combined with all essential traits necessary for the successful performance of those very duties. An example of mobility is cited from classical texts as follows.

The Manusmriti says⁽⁴⁴⁾ —

आचार्यपुत्रः शृश्रुश्रुज्ञानिदो धार्मिकः शुचिः ।

आप्तः शक्तोऽर्थवः साधुः स्वोच्छ्रयाप्या दश धर्मतः ॥

“According to the Sacred Law the (following) then (persons, viz.) the teacher’s son, one who desires to do service, on who imparts knowledge, one who is intent on fulfilling the law, one who is pure, a person connected by marriage or friendship, one who possesses (mental) ability, one who makes presents of money, one who is honest, and a relative may be instructed in the Vedas”

The Sambhava Parva of the Adi Parva⁽⁴⁵⁾ mentions, “It is also heard that those that were born Kshatriyas became Brahmanas. Viswamitra and other attained to eternal Brahma”. Thus it can be said that one who possessed the traits wanted to do service, was pure, had the desired (mental) ability and pure could aspire to learn the Vedas and gain Brahmanhood. The example of Viswamitra, a Kshatriya attaining to Brahmanhood is widely cited.

The emphasis on the requisite traits is a strain which runs throughout the classical literature. In the Adi Parva, when Arjuna captures Drupada in battle and hands him over to Drona as Guru Dakshina, Drona addresses Drupada as follows. “O hero, do not fear for your life. We are Brahmins that are ever forgiving⁽⁴⁶⁾”. Similarly, other statements of corresponding import are present in the text. When, Viswamitra (in his Kshatriya aspect) tried to take away the sacred cow, Nandini from Sage Vasistha, by force the dialogue runs as follows:

-Vasistha says,

“O amiable Nandini, you are crying again and again, and I hear your cries. But Viswamitra is taking you away by force. What can I do? I am a forgiving Brahmana⁽⁴⁷⁾.”

This dialogue between Nandini and Vasistha continues, as Vasistha says

“The might of the Kshatriya lies in their physical strength
 _____ that of the Brahmanas lies in their forgiveness”(48)

The Vajrasuci views Brahmanahood (Brahmanatvam) as representing a stage in spiritual advancement. Hence the Vajrasuci states⁽⁴⁹⁾--

कुन्देन्दुथवलं हि ब्राह्मणत्वं नाम सर्वपापस्यापाकरणमिति

उक्तं हि ब्रततपोनियमोपवासदानदमश्मसंयमो पचाराध्या

This implies that it is the removal of all sins; it is white and pure like the Kunda flower and moon. It is acquired by observing religious vows (vrata), austerity (tapas), voluntary religious observances (niyama), fasting (upavasa), donation (dana), self restraint (dama), mental quietness (sama) and restrain (samnyana). Hence, he is a brahmana who is without selfishness, ego, attachment and coveting and is free from lust and ill-will.

The veneration of "forgiveness" was exalted to such a degree that only when Viswamitra was able to repent and relent on the idea that Vasistha should accept him as a sage, that element of humility signified his entrance into the Brotherhood of Brahmana. Thus, with duties was intertwined good and right conduct. Manusmriti says--

एवमाचारस्तो दृष्ट्वा धर्मस्य गतिम् ।

सर्वस्य तपस्तो मूलमाचारं जगृहः परम् ॥

“The sages who saw that the sacred law is thus grounded on the rule of conduct, have taken good conduct to be the most excellent root of all austerity”⁽⁵⁰⁾ and further emphasis, good conduct as a pre-eminent virtue, especially for the Brahmana as:-

सावित्रीमात्रासारोऽपि वरं विप्रः सुयन्त्रितः ।

नायन्त्रितस्त्रिवेदोऽपि सर्वाशी सर्वविक्रयी ॥

“a Brahmana who completely governs himself, though he knows the Savitri only, is better than he who knows the three Vedas, (but) does not control himself, eats all (sorts of) food, and sells all (sorts of goods)”⁽⁵¹⁾

The Brahmanas were followed by the Kshatriyas. The Paulama Parva mentions the “natural duties” (i.e. qualities) of a Kshatriya as - “To be stern, to hold scepters, to rule the subjects, are the natural duties of the Kshatriya.” Thus the Kshatriya was designated to be stern, and the upholders of order and statecraft.

The essential traits of the Brahmana and Kshatriya are thus clearly distinct and defined and the necessary, requisites appropriate to the fulfillment of those very same duties. This contrast is stated in the Adi Parva, which says for the Brahmanas, “The natural duties of the Kshatriya are not those of yours.”⁽⁵²⁾ The Paushra Parva of the Adi Parva in the Mahabharata state, “Brahmana’s heart is as soft as butter

even though his words are like sharp razors. But contrary is the case with Kshatriyas. His words are soft as butter, but his heart is like a sharp instrument". The fact that being in possession of the ability meant being a rightful claimant to that social sub component. As Karna remarks in the Mahabharata, "This arena is meant for all; it is not for you alone, O Falguni, they are kings who are superior in power, Kshatriya Dharma depends on prowess alone"⁽⁵³⁾ " In the same vein Duryodhana said, "The strength is the cardinal virtue of Kshatriyas, even a man of inferior birth deserves to be fought with....."⁽⁵⁴⁾

Thus valour and strength are the hallmarks for the Kshatriya, these traits are also vital in securing a position of superiority and in maintaining peace, order and statecraft. The fact that requisite qualification was necessary to attain varna should be understood from the Mahabharata. In this particular episode where Karna is being dissuaded from fighting in the arena against Arjuna as his status of a Kshatriya is under doubt. Duryodhana remarks, "The sources of heroes and rivers are the same, both the always unknown."⁽⁵⁵⁾ And in Mahabharata, once again it is Duryodhana who argues with his preceptor (Kripa) and remarks, "It is said in the Sastras that three classes of man can claim royalty, namely persons of noble birth, heroes, and those that lead soldiers."⁽⁵⁶⁾

At the end of the scale were the sudras whose duty was “service to the higher (Caste)⁽⁵⁷⁾” and “from them he shall obtain his livelihood⁽⁵⁸⁾”. However the same text mentions that “And (he may) live by (Practising) mechanical arts,⁽⁵⁹⁾

“Thus certain liberalities are mentioned in service conditions of sudras i.e. practise of mechanical arts which most modern scholars do not take in consideration, and only tend to highlight the service component for sudras”.

Giving a contrary viewpoint on the hierarchical position of sudras in the Varna order, the Vajrasuci⁽⁶⁰⁾ states:-

अन्यच्च भवतोक्तम् । इह शूद्राणां प्रव्रज्या न विधीयते ।

ब्राह्मणशुश्रूवेव तेषां धर्मो विधीयते । चतुर्थं वर्णोऽध्वन्ते वचनात्ते नीचा इति ।

The Vajrasucci discussing the view that the sudras are meant to serve the Brahmanas and that they are the lowest being mentioned as the last in the list of the four Varnas. The Vajrasuci replies that in language such compounds are made and the words occurring last are not the lowest. The text further shows that the provision for the sudras to serve the Brahmanas is not definite, and argues that through austerity the Sudra become Brahmanas in the following verses⁽⁶¹⁾:-

यद्येवमिन्द्रादपि नीचः स्यात् । श्रव्युद्यमघोनामवद्वित इति

सूत्रवचनात् । अवा इति कुक्कुरः । युवा इति पुरुषः ।

मथवा इति सुरेन्द्र :। तयो श्वः गुरुभयोरिन्द्र एव नीचः।

स्थात् । न चैतद दृष्टं। किं हि दघनमात्रेण दोषो

भवति। तथा चं । उमामहेश्वरो । दन्तौष्ठमित्यपि

लोके प्रयुज्यते । न च दन्ताः प्रामुत्पन्नाः, उमा वा ।

केवलं वर्णसमासगातं क्रियते । ब्रह्माक्षत्र विटशूदा इति।

तस्माद्या भवपदीय प्रतिज्ञा ब्राह्मणाशुश्रूषैव तेषां धर्मो (सा) न भवति

23. किं चानिश्चतोऽयं ब्राह्मणप्रसंगः उक्तं हि मानवे धर्मे

वृषलीफेनपीतस्य निःस्वातोपहतस्य च।

तत्रैव च प्रसूतस्य निष्कृतिर्नोपलभ्यते ॥

शूद्रीहस्तेन यो भुङ्क्ते मासमेकं निरंतरम् ॥

जीवमानो भवेच्छुद्धो मृतः श्वानश्च जायते ॥

शूद्रीपरिवृतो विप्रः शूद्री च गृहमेधिनी ॥

वर्जितः पितृदेवेन रोषं सोऽधिममृति ॥

24. किं चान्यत् । शत्रोऽपि ब्राह्मणो भवति। को हेतुः। इह हि मानवे

धर्मैर्द्विहितं -

अरणी गर्भसम्भूतः कतो नाम महामुनिः ।

तपसा ब्राह्मणो जातस्तस्माज्जतिरकारणम् ॥

कैर्वर्ती गर्भसम्भूतो व्यासो नाम महामुनिः ।

तपसा ब्राह्मणो जातस्तस्माज्जतिरकारणम् ॥

उर्वशी गर्भसम्भूतो वसिष्ठोऽपि महामुनिः ।

तपसा ब्राह्मणो.....

हरिणीगर्भसम्भूत ऋष्यशृंगे महामुनि :

तपसा.....

चंडाली गर्भसम्भूतो विश्वामित्रो महामुनि :।

तांडूली गर्भसंभूतो नारदो हि महामुनि :

तपसा.....

जितात्मा यतिर्भवति.....जितेन्द्रिय : ।

(यतात्मा यतिर्भवति विजितात्मा)(जितात्मा च)

जितेन्द्रिय :।)

तपसा तापसो जातो ब्रह्मचर्येण ब्राह्मण :।।

न चते ब्राह्मणीपुत्रास्ते च लोकस्य ब्राह्मणाः ।

शीशोचनयं ब्रह् तस्मात्कुलम कारणम् ।।

शीलं प्रधानं न कुलं प्रधानं कुलेन किं शीलविवर्जितेन ।

बहवो नरा नीचकुल प्रसूता : स्वर्ग गता : शीलमुपेत्य धीरा :।।

26. के पुनस्ते कठ व्यासवसिष्ठ ऋष्यशृंगविश्वामित्र भृभृतयो

ब्रह्मर्षयो नीचकुल प्रसूतास्वे च लोकस्य ब्राह्मणाः ।।

तस्मादस्य वचनस्य प्रमाण्यादप्यनियतोदयं

ब्राह्मणप्रसंग इति शूद्रकुलोऽपि ब्राह्मणो भवति।

27. किं चाप्यन्यद् भवदीय मर्त-मुखतो ब्राह्मणो जातो बाहुभ्यां क्षत्रियस्तथा।

उरभ्यां वैश्यः सजातः पदभ्यां शूद्रक एव च ।।

The entire argument, thus runs that it is the entire notion of abilities or qualities which is a per-requisite to assign an identification to a particular Varna and not any other factor. Similarly, it is the notion of service which is predominant and not the concept of linear hierarchical sub division of compact and closed sub-groups.

The fact that the whole Varna organization and its categories were visualized as a system is evident from how the mutual cooperation was alluded to in the classical texts. The notion of interdependence and working of all groups in tandem is brought out in the Mahabharata⁽⁶²⁾ in the dialogue of Kunti, who explains the organic functioning of society couched in the language of spiritual merit. Kunti says-

- "It is my opinion that the Kshatriya who helps a Brahmana obtains the regions of bliss in after life."
- A Kshatriya, who saves the life of a Kshatrya, acquires great fame in this and in the next world.
- A Kshatrya, who helps a Vaisya on Earth certainly becomes popular among men.
- The king should even protect a Sudra who seeks protection. If he does so, he is born in his next birth in a royal family, possessing property and being adored by other kings."

What Kunti was trying to emphasise was the duty of king in protecting all Varna groups equally, the end objective of which was the maintenance of equilibrium in society.

The words of Kunti had a bearing on the larger framework of society and was of essence in preventing a rupture in the social fabric. On a micro level, this systemic whole and the need for social solidarity was highlighted at all levels, i.e. between Varnas themselves.

The Gautama Dharmasutra⁽⁶³⁾ says, "And the Arya under whose protection he places himself, must support him even if he (becomes) unable to work" The 'he' here indicates the Sudra. In the very next verse Gautama says⁽⁶⁴⁾, "And a man of higher caste (who is his master and has fallen into distress must be maintained) by him." Thus the above two verses indicate that the two opposite ends of the spectrum were dependent upon each other, in times of crisis and distress. This is an obvious indicator towards the functional/social integration of the society.

The Gautama Dharma sutra says ____ "If Aryans and non-Aryans interchange their occupations and conduct (the one taking that of the other there is) equality (between them)⁽⁶⁵⁾". Once again links occupation and conduct, thus highlighting the fact that function had to be supplemented with ability, of the nature vital to successfully undertake

the duty, and lack of ability was, "a disability" which led to degradation of status.

This flexibility of movement is called by modern social scientists "mobility". But at present and here our discussion is confined to flexibility of duties exchange which in a sense signifies mobility. The examples of mobility through combination ability and virtue are that of Kshatriyas becoming Brahmanas, men of valour and power aspiring to be Kshatriyas, and the absence of proper conduct resulting in loss of the particular caste, exchange of duties between Aryans and non-Aryans.

The perception of Varna order as a unitary ordering, is what the Vajrasuci believes in and gives the following two arguments.

1. The fruits growing on different parts of the Jackfruit (Udumbara) and fig (panasa) trees, their twigs (sakha), trunk (danda), branches (skandha), and root (mula), do not differ as they grow on the same tree. Likewise, there is no difference in men as they are born of one purusa (ekapurusot pannatvat)
2. If the Brahmanas are born from the mouth, the Brahmanis also will have the same origin. Hence a Brahmana marrying a Brahmani will be marrying his own sister (bhajiniprasanga). This will mean marrying a prohibited girl (gamyagamya) which is condemned.

The most forceful argument on the unitary ordering of a society is provided by a dialogue between Yudhishtira and Vaisampayana, to show that there was only one Varna and then on account of the difference of their actions (kriya-visesa), the caturvarnya was established.

एकवर्णमिदं पूर्वं विश्वमासीद्बुधिष्ठिर ।

कर्मक्रिया विशेषेण चार्तुर्येण्य प्रतिष्ठितम् ॥

Then, it goes to say -

शूद्रोऽपि शीलसम्पन्नो गुणवान् ब्राह्मणो भवेत् ।

ब्राह्मणोऽपि क्रियाहीनः शूद्रात्प्रत्यक्षरो भवेत् ॥

Within the entire schematic arrangement ability was of supreme import. Thus Manu⁽⁶⁶⁾ comments –

विप्राणां जनतो ज्यैष्ठ्य क्षत्रियाणां तु वीर्यतः ।

वेश्चाना धान्यघनतः शूद्राणोमेव जन्मतः ॥

“The seniority of Brahmanas to from (sacred) knowledge, that of Kshatriya as from valour, that of Vaisyas from wealth in grain and other goods but that of sudras from age alone.

Thus the linking of functions to categories and ability can be conceptualized as follows:-

<u>Functional Category</u>	<u>Function</u>	<u>Ability</u>
: Brahmanas	Priests & Ritualists	Sacred knowledge
: Kshatriyas	Warriors	Valour/statecraft
: Vaisyas	Commercial & Agriculturalists	Grain & other goods
: Sudras	Manual Labour & Service	Physical capacity and age

This is repeated again in the Manu, who notes

पंचाना त्रिषु वर्ण्य भूयांसि गुणवन्ति च ।

यत्र स्युः : सोऽत्र मानहि : शूद्रोऽपि दशर्मी गतः ।

"What ever man of the three (highest) castes possesses most of those five, both in number and degree, that man is worthy of honour among them; and (so is) also a Sudra who has entered the tenth (decade of his life).⁽⁶⁷⁾

The five here meaning – wealth, kindred, age, performance of rites and sacred learning.

Although not directly related, but an increase aspect on the importance of functions in society can be deducted from the comment of Manu which regards as follows,

अपाध्यायान्दशाचार्य आचार्याणां शतं पिता ।

सहस्रं तु पितृन्माता गौरवेणातिरिच्यते ॥

"The teacher (Acharya) is ten times more venerable than a Sub-teacher (upadhyaya); the father a hundred times more than the teacher, but the mother a thousand times more than the father."⁽⁶⁸⁾

This consideration is as the mother was the first teacher, who provided lessons to the child the first lessons in life in speech, movement and initial good habits. Hence, it is said that the inculcation of the proper conduct from the very birth was of essential importance in order to garner the proper sub components to guarantee the right functioning of the system. A few reference will conclusively prove the augmentation of duties with ability and their mutual interrelationship.

"The caste system comprises the specialization and interdependence of the constituent groups. Specialization entails separation between these groups, but it is oriented towards the needs of the whole. This relationship to the whole, which must be repeatedly emphasized, links the division of labour with hierarchy"⁽⁶⁹⁾. Manu says the same thing on mutual links between the various parts.

सर्वस्वास्य तु सर्गस्य गुप्त्यर्थं स महाद्युतिः ।

मुखबाहुरूपज्जानां पृथक्कर्माण्यकल्पयत् ॥

But in order to protect this universe He, the most resplendent one, assigned separate (duties and occupations) to those sprang from his mouth, arms, thighs and feet."⁽⁷⁰⁾

The element of separation is commented upon in the Mahabharata, the King's comments during the course of Draupadi swayamvara were as follows when it was perceived that a Kshatriya women had been won over by Brahmin priests in a test of valour –

“Something must be done (however) so that from the fear of disgrace and from the desire of maintaining that which properly belongs to the respective orders) (the Impertinent interference of Brahmanas) may not cause either swayamvaras to end thus⁽⁷¹⁾. Thus the motive of carrying out duties to maintain the whole was a precondition of continuous evolution. Furthermore it may be added that as mentioned earlier in the chapter, “the varnas can be seen as a series of dichotomies or inclusion.” The varna set of four, groups itself into the dvijas as opposed to Sudras. Within the dvijas the, Brahmanas and Kshatriyas form a block against the Vaisya, and the former block itself is opposed to each other. Thus arises a problem, if the Varna order is a form of systems management, each sub component is opposed to each other, yet it can be read as a system, which though separate yet are based on social ground reality and hence make the entire process immensely workable. Further more it may be added that---

“In our case, power exists in societies and the Brahmin who thinks in terms of hierarchy cannot give a place to power as such,

without saying so, and it is obliged to close its eyes to this point of pain of destroying itself. In other words, once the kind is made subordinate to the priest, as the very existence of hierarchy presupposes it must give him a place after the priest, and before the others and unless it is absolutely to deny his dignity and the usefulness of his function⁽⁷²⁾.”

ऊर्ध्वं नामेर्मध्यतरः पुरुषः परिकीर्तितः ।

तस्मान्मेध्यतमं त्वस्य मुखमुत्तमं स्वयम्भुवा ॥

Hence the injunction of Manu as above, which means, “Man is stated to be purer above the navel (than below); hence the self existent (Svaymbhu) has declared the purest (part) of him (to be) his mouth⁽⁷³⁾.”

Hence the division of labour into a succession of dichotomies of ranked on a scale of purity is as follows:-

<u>Varna Category</u>	<u>Bodily origin</u>	<u>Dichotomy/inclusion</u>
1. Brahmin	mouth	above the navel: purest part
2. Kshatriya	arms	above the navel: pure
3. Vaishya	thighs	below the navel: impure
4. Sudra	feet	below the navel: lowest part, most impure

“It should be observed that there is no contradiction in the classical authors, for they speak only of the Varnas, even when we may suppose that they have caste society in mind. In this sense, it is we who distinguish a hierarchy of purity as a distinct social principle. In the minds of these authors, as soon as government or secular matters in

general are involved, this view unceasingly relies for external support on the Varnas. All the more reason for us to avoid incorrectly disassociating the two views, and to recognize their implicit connection as reflected in the actual status rankings, when power in same way counter balances purity at secondary levels, while remaining subordinate to it at the primary or non segmented level⁽⁷⁴⁾."

The statement would thus be apt that "Ranks and degrees, orders and regularity are essential to the well being of every community. The regulations of caste are nothing else than these, carried to an excess of refinement⁽⁷⁵⁾."

This excessive element of refinement was evident in the fact that not only was the society structured into economic segmentation but the manner and pursuit of the ultimate objective was distinguished and well defined by an attempt to organize the life of each and every individual through the institution of asrama.

The word asrama is derived from sram signifying exert, to labour and etymologically means "a stage in which one exerts oneself". P.V. Kane, cites the following verse to supplement this view --

आश्रम्यन्ति अस्मिन् इति आश्रमः ।

From this sense arose the meaning of hermitage.

Initially in the Vedic Literature, asrama, as an organised system is not found, although the reference to some asramas namely that of brahmacharya, grahapati and yati finds mention in the Vedic Literature. As an organized and ordered system it is mentioned, in the Chandhyoga Upanisad, in which only three stages are alluded to. All the four asramas find mention for the first time in the Jabala Upanishad. The four stages of the asrama are described as "there are four asramas, viz. the stage of the householder, (staying in) the teacher's house, stage of muni, the stage of being a forest dweller⁽⁷⁶⁾. The four stages are also mentioned by Gautama⁽⁷⁷⁾, who speaks of the brahmachari, gr.hastha, bhiksu and vaikhansa. The first stage is that of the Brahmachari⁽⁷⁸⁾, whose is a life of study, of which the characteristic requisite is that he must leave the home of his natural/biological parents, to go and reside (i.e. antekulavasin) with his spiritual preceptor. The Brahmacharins were divided into two categories of

- a) Upakurvana: one who undergoes the student life period, after which he marries and sets up a household.
- b) Naishthika: one who remains a student and celibate lifelong, devoting all life and breath to the pursuit of knowledge.

The second Asrama is that of the Grihasta⁽⁷⁹⁾ whose duties comprise sacrifice (yajna), study (adhyayana), and liberality (dana). It is

to be noted that those threefold duties are one which are designated as the common virtues of all Varnas by Gautama, Apastambha and Manu. Inherent within the life of a householder was the acceptance of the three rinas, i.e. debts or obligations, which he must repay. Thus the three rinas are

- i) Deva Rina: debt to Gods, to be repaid by Yajna
- ii) Pitṛ Rina: debt to ancestors, to be repaid by offsprings perpetuating the family.
- iii) Rishi Rina: debt fathers of learnings (seers and sages), and, to be redeemed by contributions to learning and religious life.

The third asrama was that of a vanaprasta⁽⁸⁰⁾, who was to live a life of restraint and denial, marked by the characteristics of --

- i) Anichaya: not given to hoarding
- ii) Urdhḍh, vareta: continence
- iii) Abstaining from movement in the rains
- iv) To subsist only on alms which were readily given
- v) Wearing minimal clothes, i.e. loin cloth or rags.
- vi) Abstaining from plucking leaves or fruits for eating and thus injuring plant life.
- vii) Not staying for a second night in the same village.

The fourth asrama⁽⁸¹⁾ which carried more rigid austerities and abstentions was known by various nomenclatures as Parivrajaka, Sannyasi, or Vaikhansa. The Sannyasi or Parivrajaka is usually described as one who "abandoning falsehood, pleasure and pain, the Vedas, this world and the next, seeks only the Atman." A follower of this credo was also known by the term Vaikhanasa, or the follower of the rules of sage Vikhanas, and was to live in the forests and to subsist on raw food and berries found only in the forest. The vows of a Vaikhansa entailed not living on land that is ploughed, not entering a village, nor storing food for a year, growing his hair and wearing only bark and skin. Followers of this asrama were generally recruited from the category of Naishthikas, widowers, childless householders, and persons above 70 years of age having sons to take charge of their home and family.

The above said, are the basic general scheme of the asrama provided by the Smriti texts, however, this formulation is also provided for in the Arthasastra⁽⁸²⁾.

An overview of the asrama indicates that there were various views or (paksas) on it. These were those of badha (annulment or contradiction), Vikalpa (option), and samuccaya (orderly coordination). The Vikalpa, literally indicating an option was a view which regarded

that after the stage of brahmacharya there was an option, whereby a man could immediately become a parivrajaka, bypassing the stage of a householder. This is the view provided in Jabala Upanisad, in Vasistha⁽⁸³⁾, in Yajnavalkya⁽⁸⁴⁾, and the Apastambha Dharmaśāstra⁽⁸⁵⁾. The view on Samuccaya was that a person has to resort to all the four stages of life in an orderly manner going from brahmacharin, to the next and so forth, and he cannot become a householder after becoming a Sanyasin, or become a Sanyasin immediately after brahmacharya. The Manu Smṛiti is the prime supporter of this view and says --

एवं गृहात्रमे स्थित्वा विधीयत्स्नातको द्विजः ।

वने वसेत्तु नियतो यथावद्विजितेन्द्रियः ।

गृहस्थस्तु यदा पश्येद्वलीपलि तमात्मनः ।

अपत्यस्यैव चापत्यं तदारण्यं समाश्रयेत् ॥⁽⁸⁶⁾

The doctrine of orderly coordination of life duties is again highlighted by Manu when he reiterates it as follows --

आश्रमादाश्रमं गत्वा हुतहोमो जितेन्द्रियः ।

शिक्षाबलिपरिश्रान्तः प्रव्रजन्नेव वर्धते ॥⁽⁸⁷⁾

Thus having successively passed from one order of life over to another, he, the conqueror of his senses, and institutor of many a fire-offering, tired with the labour of begging and offering oblations, shall

augment or increase his pleasures in the next world by taking to asceticism.

So great was Manu's belief in orderly conduct of duties in their proper emulation that he is constrained to remark again, in a span of the next verse that -

अधीत्य विधीषद्धेदान्पुत्रान्ब्रह्मोत्पाद्य धर्मतः ।

इष्ट्वा च शक्तितो यज्ञैर्मनो मोक्षे निवेशयेत् ।⁽⁸⁸⁾

Having studied the Vedas according to the regulation, procreated sons according to the rules of virtue, and performed the religious sacrifices to the best of his ability, let him turn his thoughts to self-emancipation.

The third view is that of badha, held by Gautama and Baudhayana. Gautama⁽⁸⁹⁾ states that --

तस्याश्रमविकल्पमेके द्वयते ।

ऐकाश्रमं त्वाचार्या ब्रह्मविद्यानाम्नास्वयस्य ॥

Gautama thus holds that there is only one asrama, namely that of the householder with Brahmacharya, being preparatory to it and the other two asramas inferior to it.

A critical analysis of the various pakṣas reveal that the overwhelming support was in the favour of the pursuance of the duties of a householder. The life stage of a householder is praised to the skies and its centrality to the entire society and its well being is stated in no

small measures. Thus Manu in near successive verses give the following remarks, highlighting the core contribution of a grahasta.

Manu says --

ब्रह्मचारी गृहस्थश्च वानप्रस्थो यतिस्तथा ।

एवे गृहस्थप्रभवाश्च वत्तारः पृथमाश्रमाः ।।⁽⁹⁰⁾

Brahmacharins, householders, forest dwellers and yati (fourth order of ascetics), all these four several orders have sprung from the order of the householder.

सर्वेषामपि चैतेषां वेदस्मृतिविधानतः ।

गृहस्थ उच्यते श्रेष्ठः स त्रीनेतान्तिबभर्ति हि ।।⁽⁹¹⁾

Of all these orders, the order of the householder is said to be the highest according to the ordinances of the Vedic Law Code, since it is the order of the householder that supports all the other three orders.

यथा नदीनदाः सर्वे सागरे यान्ति संस्थितिम् ।

तथैवाश्रमणिः सर्वे गृहस्थे यान्ति संस्थितिम् ।।⁽⁹²⁾

As all rivers, whether bearing masculine or feminine names, finally draw their support from the ocean, so all the orders (of ascetic, Brahmacharins, etc.) draw their maintenance from the order of the householder.

Thus once again the whole concept of duties and their rightful performance is being emphasized. It was regarded as vital to perform

the duties contingent upon the stage of life and non-performance of the very same was seen to lead to adverse position in this and after life. Thus Manu states that those who disregarded their assigned duties were destined to hell and various demerits, and he ordains --

ऋणानि त्रीण्यपाकृत्य मनो मोक्षे निवेशयेत् ।

अनापाकृत्य मोक्षं तु सेवमानो व्रजत्यथ : ॥⁽³³⁾

Having discharged his three debts let him devote his thoughts to self emancipation; striving to attain emancipation without discharging these debts, a man obtains a degraded status.

Once again Manu says to the similar effect

अनधीत्य द्विजो वेदाननुत्पाद्य तथा सुतान् ।

अनिष्ट्या चैव यजैश्च मोक्षमिच्छन्व्रजत्यथ : ॥⁽³⁴⁾

For seeking the emancipation of self, without having studied the Vedas, and procreated children and performed the sacrifices, a Brahmana shall obtain a very degraded status in the next world.

While the travails of hell and negative injunctions were heaped upon those who did not perform their duties, on the contrary to those who did carry out their duties properly were designated as the rightful recipients of the pleasures of heaven. In support of this line of argument Manu writes in as --

सर्वेऽपि क्रमशस्त्वेते यथाशास्त्रं निषेविताः ।

यथावत्कारिणं विप्रं नयन्ति परमां गतिम् ।।⁽⁹⁵⁾

All these orders, adapted and gone through according to the Regulation, lead a Brahmana, who has duly discharged the duties they respectively entail, to the supreme status.

Once again Manu writes,

यथा वायुं समान्नित्यं वर्तन्ते सर्वजन्तवः ।

तथा गृहस्थमाप्नित्यं वर्तन्ते सवै आश्रमाः ।।⁽⁹⁶⁾

As all creatures live by taking recourse to the air, so all the different orders (of mendicants, forest dwellers and anchorites) depend upon the householder for their existence. Again and again, Manu buttresses the contribution of the householders and says,

यस्माद्ब्रह्मणाश्रमिणो ज्ञानेनात्मेन चान्वहम् ।

गृहस्थेनैव धार्यन्ते तस्माज्ज्येष्ठाश्रमो गृही ।।⁽⁹⁷⁾

As the three orders of the ascetics are maintained by the householder with gifts of food and knowledge of the eternal Vedas, the householder is the foremost of all the four Vedas.

This view which highlights the supremacy of the householder also finds support in the Vasistha Dharma Sutra⁽⁹⁸⁾, and the Baudhayana Dharma Sutra⁽⁹⁹⁾, amongst others.

Thus the question which arises is that why is it that the stage of a householder is highlighted. This can be studied against the background which sees "Manu not so much as a text on dharma as it is on apad-dharma, the principles of life led in a perpetual state of crisis."⁽¹⁰⁰⁾ However, the entire systemic organization was moving towards a systems failure that the "great wave of renunciation...both as the cause and effect of the rise of heterodox sects like Buddhism and Jainism was a menace, to ... Hindu Society and to Varnasrama-dharma upon which it was based."⁽¹⁰¹⁾ Hence in order to maintain the equilibrium of the sub components from the external threat, the stage of a householder was constantly buttressed as it provided for the smooth functioning of the entire system, based as it was upon the two great principles of sociological support -- that of, primary procreation and secondary socialization -- which were the cogs in the wheel of smooth movement in any social setting. And why the Brahmin was the responsibility enjoined upon to do these actions was since they were the repositories of virtue and knowledge, the conspicuous minority of doers, their vision and life pattern would be emulated by the silent majority (a process which has been called "Sanskritization") and hence any disequilibrium in society would dissipate and the system was in function once again.

So deep set and well entrenched was the philosophy of attaining the ultimate objective of preservation of society through orderly conduct and performance of duties, that when this system was deeply shaken by the external environmental threat of Jainism and Buddhism leading to a wave of renunciation, that, even Kautilya in his Arthashastra, a treatise devoted largely to pursuit of artha, and niti was constrained into supporting the Smriti authors to preserve the societal. The Arthashastra, in the strongest of terms disapproves of the entire notion calling for a premature renunciation of the world and duties of domestic life, without the formal sanction of legal authorities and without making the necessary provision for son and wife that Kautilya calls for a banning of the entry of ascetics into the village boundaries.

"The scheme of the four asramas was designed to give wide scope to individuals in the choice of a vocation in life which was best suited to their intellectual capacity and mental inclinations"⁽¹⁰²⁾. This is further evident from the fact that the organizational principle not only had its societal implications in Varna, individual implications in asrama, but also combined the social and individual forms of organization with the ethical or moral values (purushartha) through the collective idea of a caturvarga.

A diagrammatic presentation of the entire scheme of things is attempted below

A Model of Hindu Orders of Value

**Moksha (contradicting) Dharma & excluding Artha & Kama
Renunciation (Sanyasa) of Society & Pursuit of liberation
(Moksha) Temporal Purity**

Temporal Purity

Hierarchy of caste structure
based on preponderance of pure
matter (satva) over passionate
matter (rajas) and dull, heavy
matter (tamas)

The Brahmin
Higher than
the king or
the wealthy
merchant

Temporal Auspiciousness
"Good Luck" or well-being in
the present temporal world
symbolized in the wedding
(mangala), in married women
whose husbands are living in the
king or prince

Dharma
takes
precedence
over

All three
higher than
artisans and
labourers

Pursuit and enjoyment of wealth
and power (artha)
Satisfaction of physical desires
(kama)

Artha
and
Kama

Each caste has its own specific duties (svadharma), fulfilling which helps one attain purer material bodies higher in the caste scale in future lives.

Seeking liberation in the midst of society through detachment from worldly goals. Moksha including Dharma and transforming Artha and Kama

(Source: John B. Carmen)

Axes of sacred values in Hindu Society

The summum bonum of Hindu ethics is the purushartha; comprising of

1. dharma
2. artha
3. kama
4. moksha

The first three form a category of themselves, the trivarga, while moksha is called the parampurushartha.

John B. Carmen has used the diagram to analyse the axes of sacred and auspicious, yet the very same combination points to the systemic organization of society with relevant/pertinent values. Hence, "The innermost square is well being in the present temporal world, called samsara.....and is filled with powers that either aid worldly well being or threaten it. For most Hindus the most significant ritual events take place in this sphere, and the central ritual is marriage, the auspicious rite (mangala). Economics and politics are in this sphere, both included in a single concept of artha, for the power to rule and the fruit of rule are so closely connected. Every householder tries to amass wealth....."⁽¹⁰³⁾

The innermost square is a microcosmic representation of the macrocosm of society, where the social, individual and ethical goals merge, and for the sustenance of this inner core, that the organizational ethics were refined to a perfection. The preservation of this core was

basic for the conservation and propagation of the societal system, which accounts for the Varna system to bring order out of chaos, of the asrama system which organized the individual life to the pursuit of larger society goals and conceptualization of purushartha which provided scope for individual development of potentialities. Hence when this pivot of existence, for the various sub components was threatened strongly worded injunctions against transgression of duties and abilities was recorded, which in modern day social studies are seen as the exploitation of one group over the other. Thus it can be said that the distinctions of varnas and their respective duties had nothing of hatred and sense of inequality, which has prompted many a civilized society of modern times to lay down an arbitrary barrier between man and man, to create an artificial gulf between the classes and masses, on the basis of money power. On the contrary, the risis had already recognized the inevitable necessity of organizing a division of labour among the several orders of society. The Varna system had its origin in the principle of cooperation and reciprocal help.

NOTES

- (1) The New Oxford Dictionary of English
- (2) L. Dumont *Homo Hierarchicus* p.65
- (3) L. Dumont *Homo Hierarchicus* p.65ff
- (4) M.N. Srinivas, p.32 *Varna & Caste in caste in Modern India & Other essays*. 1962 (Reprint in *Social Stratification* by Dipankar Gupta)
- (5) *Apastamba Dharma Sutra*: I.11.4
- (6) *Manusmriti*: 3.31.
- (7) *Gautama Dharma Sutra*: X.1
- (8) *Gautama Dharma Sutra*: X.2.
- (9) *Gautama Dharma Sutra*: X.3.
- (10) *Manusmriti*: 1.88
- (11) *Gautama Dharma Sutra*: X.7-13
- (12) *Manusmriti*: I, 89
- (13) *Gautama Dharma Sutra*: X.49
- (14) *Manusmriti*: 1.90
- (15) *Gautama Dharma Sutra*: X.56-57
- (16) *Apastamba Dharma Sutra*: I.1.1.7
- (17) *Manusmriti*: 1.91
- (18) *Cambridge Encyclopedia of India*: 1989 see entry on caste (by T.N. Madan) p.364-365
- (19) L. dumont p.67
- (20) *Gautama Dharma Sutra*: X.3
- (21) *Manusmriti*: 1.88.90
- (22) L. dumont p.69
- (23) L. dumont p.69
- (24) *Manusmriti*: 1.108
- (25) *Manusmriti*: II.8
- (26) *Manusmriti*: II.37
- (27) *Manusmriti*: II.38
- (28) *Manusmriti*: II.39
- (29) *Manusmriti*: II.11
- (30) *Adi Parva: Anukarmanika Parva*: I.261
- (31) See R. V. III,1; 17, VI.15.13, X.21.5
- (32) N.N. Bhattacharya; p.258. *A Dictionary of Indian Mythology* - 2001.
- (33) *Adi Parva: Paulama Parva Chap XI*: 14
- (34) *Adi Parva: Paulama Parva ChapXI*: 15
- (35) *Manusmriti*: 1.99
- (36) *Manusmriti*: II.114
- (37) *Manusmriti*: II.150
- (38) *Manusmriti*: 1.97
- (39) *Manusmriti*: II.87
- (40) *Manusmriti*: II.158
- (41) *Manusmriti*: II.157
- (42) *Manusmriti*: II.162
- (43) *Manusmriti*: II.109
- (44) *Mbh*: Chap. CXXXIX V.14
- (45) *Sambhava Parva. Adi Parva. Chap. CXL*: 65
- (46) *Chaitrath s Parva. Adi Parva Chap. CLXXVII*: 25
- (47) *Chaitrath s Parva. Adi Parva Chap. CLXXVII*: 28
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CHAPTER VI

SUB-COMPONENT II : CONNUBIUM

Connubium, or relations arising from marriage have also been treated as one of the sub- components of the System, which is the Indian civilizational ethos. Marriage is defined as a secular rather than religious affair, it is a matter of reciprocal obligations between two clans. It is a contract validated by economic exchanges and mutual services. It may, however, be accompanied by magico-religious ceremonies."⁽¹⁾ Hence marriage can be regarded as a groups or social affairs, and affection is not one of the value expected from it. If there is a fundamental disagreement about the ideological underpinnings of caste, there is greater agreement on the proposition that caste is inextricably tied to kinship. As Pauline Kolenda writes, "The constant feature in caste is its kinship or descent- group structure."⁽²⁾

In India, marriage, is the most important of all samskaras. Throughout the ages for which literary traditions is available, marriage has been praised with the highest of values and in the greatest terms.

Marriage is the legal union of a man or woman; the act of ceremony of marrying is a sacrament in the classical Indian Literature. Thus the samskara of marriage has no opponents against and it is thought of very highly. The Tandya Mahabrahmana (VII.10.1) writes

"इमी वै लोकौ सहास्तां तौ विचन्तावभूतां विवाहं विवाहायहै सह नावस्त्विति ।

Which translated implies that " heaven and earth were once together but they became separate". Then they said, "let us bring about a marriage, let there be a cooperation between us." This reference makes it clear that the final objective of marriage was cooperation between two individuals.

In India this sacrament is known by various names and nomenclatures. "The several words that are employed to denote the idea of marriage indicate one or more of the elements of samskara."⁽³⁾

The words thus used are

- i) Udvaha taking the girl out of her parental home.
- ii) Viyaha: taking the girl away in special way or for a special purpose, i.e. for making her one's wife.

These two terms are mentioned in the Tandyā Mahabrahmana (VI 10.18.01) the Taittiriya Samhita (VII 2.87) and in the Aitereya Brahmana (27.5.)

- iii) Parinaya or Parinayana: going round; making a pradakshina of holy fire.
- iv) Upayama: to bring near and make one own
- v) Panigrahana: taking the hand of the girl.

एवमुपयमनपाणिग्रहण शब्दवत्परिणयन शब्दोऽपि दण्डिन्यायेनैव

कर्म समुदाये शास्त्रेषु प्रयुज्यते ।

The sacrament of marriage is bound by various rules. The most primary of the rules for the institution of marriage concerns Anuloma and Pratiloma marriage. "When a male of a higher varna marries a woman of a lower varna, the marriage is said to be anuloma; (literally, with the hair, in the natural order), and the offspring is said to be anuloma; when there is a union of a woman of higher varna, with a male of a lower varna, it is said to be pratiloma (against the hair, i.e. against the natural of proper order) and the children of this union are said to be pratiloma. These two words anuloma and pratiloma (as applies to marriage or progency) hardly ever occur in Vedic literature."⁽⁴⁾ In the Brhadaranyaha Upanishad, Pratiloma is mentioned in the following context.

स होवाचाजातशत्रुः प्रतिलोमं चैतद्यद ब्राह्मणः क्षत्रियमुपेयाद ब्रह्म में तस्य तिति ।⁽⁵⁾

Similarly, in the Kausitaki Brhadamayaka Upanishad pratiloma is mentioned,

यद ब्राह्मणायाध्याहात्मनेच्याह यदू ब्राह्मणायाधिब्रूयाद्यदू ब्राह्मणायाध्याहात्मनेच्याह यदू ब्राह्मणं पराहात्मानं पराह तस्माद ब्राह्मणो न परोज्यः ।⁽⁶⁾

This literally means, " if a Brahman and a non- Brahman come (to a man) asking him a question, then he should speak to the Brahman first; that he speaks to a Brahman first is really tantamount to speaking first to one self; when he speaks away from the Brahman (i.e. he speaks to the

non- Brahman first and then to the Brahman) that is really speaking away to oneself; therefore a Brahman should not be spoken away (i.e. postponed to non- Brahman)"

On the basis of the above two verse, thus P.V. Kane has to say," From this it may possibly be inferred, that pratiloma and anuloma might have been employed with reference to marriage also (in the days of the Upanisad."⁽⁷⁾

On the contrary, to the pratiloma aspect, however, the true marriage was that between a man and woman of the same Varna. As the Aapastambha Dharma Sutra says, "Sons begotten by a man who approaches in the proper season a woman of equal caste, who has not belonged to another man, and who has been married legally, have a right to (follow) the occupations (of their caste) and to (inherit the estate), If they do not sin against either (of their parents)."⁽⁸⁾

Thus it is said that only the son born of such an approved form of marriage is entitled to the privileges and occupation of his father. And marriages even of the anuloma variety were if incomplete other parameters as specified above, were also looked down upon.

The other rule of marriage was that of Endogamy, that which required marriage within a certain large community. This meant that a man should marry a girl of the same caste. But within this large

community, there were certain groups which were prohibited for marriage to a person belonging to another group of the same caste of community. Here the principle of exogamy was operational. Thus the Apastambha Dharma Sutra required that the bride to be chosen must not belong to the same gotra, " He shall not give his daughter to a man belonging to the same family (gotra), nor to one related (within six degrees) on the mother's or (the father's side)."⁽⁹⁾

While Apastambha uses the denonuniation of gotra, the Vasistha Dharma Sutra forbids marriages with a girl whose pravara (or arseya) is the same as that of the bridegroom. Hence Vasistha enjoins, "(A student who desires to become) a householders shall bathe, free from anger and elation, with the permission of his teacher, and take for a wife a young female of his own caste, who does neither belong to the same Gotra nor has the same Pravara....."

" Who is not related within four degrees on the mother's side, nor within six degrees on the father's side."⁽¹⁰⁾

The Manusmriti uses another term, that of Sapinda and comments that the bride must not be a sapinda or blood relation of the mother of the bridegroom, and also not related to the father's side, such is the injunction, "A (damsel) who is neither a Sapinda on the mother's side, nor belongs to the same family on the father's side, is recommended to

twice born men for wedlock and conjugal union."⁽¹¹⁾ Similarly, Yajnavalkya gives a prohibition against marrying a sapinda girl to seven degrees on the father's side and five degrees on the mother's side, " (A twice born one) whose celibacy has not been disturbed, should marry a maiden endowed with auspicious marks, (i.e. shorn of all defect, such as, eunuchism, etc.), ananyapurvikam (who have not been known by anyone before or who had not been previously promised to any one, beautiful, asapindam, (i.e. remote from his father's family by seven degrees and that of his mother by five) younger in age, freed from (incurable) diseases, having brother, born in a different gotra (family) distanced from his mother's family by five degrees and that of his father be seven."⁽¹²⁾

Hence it is in the order of things to explain the various restrictive terms employed in the marriage process in India.

The terms sapinda is derived from Pinda which occurs in the Rig Veda and the Taittiriya Samhita and means "a part of the body of the sacrificial animal thrown into fire as an offering". The Taittiriya Samhita and the Satapatha Brahmana use pinda in the sense of "ball of rice". But the word sapinda hardly ever occurs in the Vedic literature. In the Dharmasutras the word "sapinda" occurs frequently and there is a close connection between offering pinda and taking inheritance. According to

Manu, Parasara and Yama, sapinda implies not marrying in descent upon the degree from the fourth common ancestor on both sides, from mother's side and father's side.

The other term used in the 'gotra'. Gotra in the Rig Veda means "cow-stable" or "herd of cows". However, in some verses gotra means only "assemblage (samuha) - from which transition to the meaning of "a group of persons is easy and quick." In the Atharvaveda the term visvagotrah (belonging to all families) occurs. Hence 'gotra' clearly means "a group of men connected together" (by blood). The general conception about gotra is that it denotes all persons who trace descent in an unbroken line from a common male ancestor.

The third term, that was used in this context was that of Pravara. The concept of pravara is closely interwoven with that of gotra from very ancient times. The two have to be studied together. Pravara literally means "choosing" or "invoking" (prarthana). As Agni was invoked to carry the offerings of a sacrificer to the gods by taking the names of the illustrious rishis (his remote ancestors), who in former times had invoked Agni, the word pravara came to denote one or more illustrious rishis, the ancestors of a sacrificer. A synonym also used in the sense of pravara was arseya or arsa. The word pravara does not occur in Rig Veda although term arseya does occurs in the same text.

Commenting upon the implications of these terms Manu also writes:-

असिपण्डा च या मातुरसगोत्रा च या पितुः ।

सा प्रशस्ता द्विजातीना दारकर्मणि मैथुने ॥

"A (damsel) who is neither a sapinda on the mother's side, nor belongs to the same family on the father's side is, recommended to twice born men for wedlock and conjugal union."⁽¹³⁾

From the above mentioned regulations regarding marriage relations, it can be rightly said that,....."the regulation of marriage is an expression of the principle of separation: castes separate themselves from one another by prohibiting marriage outside the group...."⁽¹⁴⁾

Thus for general common sense "the 'caste' is above all a "closed" group, permanent, exclusive and self-sufficient. A man of caste X marries a woman of caste X and the children belong to Caste X. This fact is expressed in various ways, by saying that the group reproduces itself from generation to generation, is "endo-recruiting," etc."⁽¹⁵⁾ However, Dumont's analysis of the traits is significant wherein he asserts that firstly endogamy "contrasts the caste with the tribe and with the majority of societies which tolerate marriage outside the group, even though it generally takes place within"⁽¹⁶⁾ and secondly, that the descent factor contrast caste with the clan in which descent is (uni) liner

whether in the paternal or maternal line⁽¹⁷⁾. Digressing slightly from the point in discussion, but equally pertinent to the issue above is that caste is seen as a group, but immediately arises the question of what kind of a group. In anthropological terms, the grouping could be of the lineage, clan, tribe, class and finally caste. A lineage is usually described as a kinship group descended from a known ancestor so that the whole sequence of ancestors for five to six generations is known. This relationship may be traced through, either, the male or female line. A clan on the other hand is a much larger kinship group, in which all actual lineal relationship with the ancestors is lost, but all members are supposed to be descended from one man. This descent is unilineal, that is, derived only through the male (patriclan) or the female (matriclan). Clans may segment into subclans or lineage.

"Tribes in cultural anthropology it is a theoretical type of human social organization based on small groups defined by traditions of common descent and having temporary or permanent political integration above the family level and a shared language, culture and ideology----- As an ideal type, the tribe derives its unity not from a territorial identity but from the sense of extended kinship."⁽¹⁸⁾

The class as a groups emerges in those societies which are above the subsistence level." The differences based on skill, prowess,

achievement in hunting, or even wealth. Such societies may be equalitarian in a socio- economic sense, inspite of these differences, if there is undisputed access to the means of subsistence or group ownership of productive resources..... There were distinctions within the master class, but these did not deprive the less worthy of their rights or involve any of exploitation. The differences were in degree rather than in kind."⁽¹⁹⁾ And finally, another form of group is the caste .

The highly entrenched notion on caste views...." Caste is the freezing of social classes by means of endogamy, i.e. marrying within the group instead of without....."⁽²⁰⁾

Thus as far as marriage relations of the various groups pertain the lineages and class are almost exogamous. This serves the double purpose. In the first place, it prevents the complications of sexual relations within a close association such as family and extended family. But in the second place it established friendly relations with groups which might otherwise be regarded with hostility. It establishes cooperative relations with the group to which so many members of the family have gone as brides and husbands.⁽²¹⁾ Thus as Levi Strauss describes marriage, it becomes " a mechanism which "pumps" women out of their consanguineous families to redistribute them in affinal groups.

However, endogamy must not be taken as a *debilitating factor*, but "Let us note in passing that, compared with a tribe which breaks down into clans, caste society represents a higher order of complexity, since each caste generally has its exogamous clans or their equivalent."⁽²²⁾ Dumont further adds, "..... that whilst it looks in general, self sufficient for its reproduction, yet the caste is strictly dependent upon other castes from the hierarchical point of view and in virtue of the division of labour. It would be surprising if nothing in the castes internal organization, in particular marriage reflected these external features. Further, we have already seen that in general a subdivision of the same kind as the caste, a segment rather than the caste itself, is the unit of endogamy in the sense of the group outside which marriage is forbidden."⁽²³⁾

Hence, when it comes to somewhat similarity of groups, the caste, at least, can come closest to the tribe as far as marriage relations are to be defined. This kind of similarity is far more equitable, as the caste could break up into lineages and clans (i.e. gotra, sapinda and pravara). Thus, as a natural corollary between the two groups, it may be said that for both systems the exogamous groups are clans and lineage or gotra, sapinda and pravara, while the unit of endogamy is the tribe and the caste itself. And if the tribal unity was from a sense of extended kinship,

so was the objective in varna system. It also provided for the enhanced cooperation of a similar group within the earlier sub- component of duty/functional sub system.

In the entire context of ability and disability, it has to be seen that the regulations of marriage were not a disability, but arising naturally out of hierarchy; which as explained earlier was an expression of division of labour. "In short, caste are self- reproducing because this is a condition for the application of the hierarchical principle which ranks castes and their segments does not stop at the unit of endogamy, it permeates it, in a more or less effective way, and endogamous marriage does not necessarily unite spouses of equal status In practice, one often marries not throughout the whole range of the unit of endogamy but only into a part of it, often a territorial part."⁽²⁴⁾ Thus Louis Dumont regards marriage " most of the expectations disappear if two principles are introduced: (i) endogamy is a corollary of hierarchy, rather than the primary principle, (ii) the first marriage must be distinguished from subsequent freer marriages and; a fortiori, from illegitimate unions.

As within any group (i.e. tribe), so also with the caste groups the purpose of marriage was to extend cooperation with groups which would otherwise be hostile . That the prime object of marriage was undoubtedly co-operation, a fact which through mention finds

recognition, even, in the Rig Veda. The examples which highlights cooperation in marriage are

गृभ्णामि ते सौभारवाय हस्तं मया पय्या जरदष्टिर्यथासः ।

भगो अर्यमा सविता पुरधि मह्यं त्वादुर्गार्हपत्याय देवाः ॥

"I take thy hand in mine for happy fortune that thou mayst reach old age with me thy husband, Gods, Aryaman, Bhaga, Savitar, Purandhi, have given thee to be my household's mistress."

Thus the husband took a woman as a wife for "garhapatya,"⁽²⁵⁾ that is the establishment of the house, by lighting up the hearth. In the context of co-operative efforts, the like mindedness of the contending parties is prayed for. Hence it is plead that-

त्वर्यमा भवसि यंत कनीनां नाम स्वद्यावन् गृह्णी बिभर्षि ।

अजन्ति मित्रं सुविधं न गोभि यदि दंपती समनस्ता कृणोषि ॥

"Aryaman art thou as regardeth maiden: mysterious is thy name, O self-sustainer. As a kind friend with streams of milk, they balm thee what time thou makest wife and lord one minded."⁽²⁶⁾

And similarly, the same need for cooperation is once again highlighted when it is said-

अग्ने शर्धं महते सौभगाय तव द्युमान्युत्तमानि सन्तु ।

सं जास्पत्यं सुयममा कृणुष्व शत्रुयतामभि विष्ठा महौसि ॥

"Show thyself strong for mighty bliss, O Agni, most excellent be thine effulgent splendours. Make easy to maintain our household lordship, and overcome the might of those who hate us".⁽²⁷⁾

The above verses speak of co-operation of husband and wife in the worship of Gods who should grant benediction, so that through their cooperative efforts the society and its values and traditions could be handed down to future generation.

So also, in the Rig Veda it is said,

जायेदस्तं मघवन् त्सेदु योनि स्तदिह त्वा युक्ता हरयो वहन्त ।

यदा कदा च स्तुनवाम सोम मग्निद्धा इतो धन्वात्यच्छ ॥

" A wife , O Maghavan is home and dwelling; so let thy Bay Steeds Yoked convey thee hither.

Whenever we press out for thee the soma, let Agni as our Herald, speed to call thee.⁽²⁸⁾

Thus the wife is the jayed-astam (the wife herself is the home).

The earliest purposes of marriage of establishing a household through mutual co-operational mentioned in the Rig Veda, are once again reemphasized in the later text like the Manusmriti. Manu says,

अपत्यं धर्मकार्यणि शुक्रुषा : रतिस्तप्ता ।

दाराधीनस्तथा स्वर्णं पितृणामात्मनश्च ह ॥

"Offspring (the due performance of) religious rites, faithful service, highest centrifugal happiness and heavenly bliss for the ancestors and oneself, depend on the wife alone."⁽²⁹⁾

Thus as P.V. Kane says, "So these three viz. dharma, sampatti, praja (and consequent freedom from falling into hell) and rati (sexual and other pleasures) are the principal purposes of marriage according to smritis and nibandha."⁽³⁰⁾ Thus, it was as a result of co-operation between two individuals to achieve life's ends. Yajnavalkya also writes the same in, when he says, "By sons, grandsons and great- grandsons, is required an unending family (in this world) and the celestial region hereafter; for these purposes a wife should be served and well maintained and protected."⁽³¹⁾

One can thus safely conclude that endogamy has to be seen in the correct perspective and the erroneous perception that castes were made self perpetuating, has to be highlight marriage as a mechanism, whereby marriage only helped in the furtherance of the maintenance of the distinct sub-systems in the pursuit of the higher good of the sociological division of labour.

Thus from the above account it can be adduced quite correctly that marriage regulations were means of co-operation within the parameters of division of labour. So that cohesion and cooperation

among the societal members was maintained in the greater pursuit of sociological continuity. Moreover, the ideal of endogamous correct marriages was proving difficult to be maintained and followed as the course of history is replete with example of inter-varna marriage, which find a mention in literary texts and in the later Epigraphic records.

The fact that mixed caste was a reality is quite evident from the Manusmriti (x.24), which says,

व्यभिचारेण वर्णानामवेद्यावेदनेन च ।

स्वकर्मणां च त्यागेन जायन्ते वर्णसंकराः ।

Through the intermixture of castes, through, intermarriage among forbidden castes, and through renunciation of their specific duties by (members of the four several) castes, that the hybrid ones are born.

This aspect is once again brought out by the Manu smriti which says- (in x. 5 & 6)

सर्ववर्णेषु तुल्यासु पत्नीश्वस्रतयोनिषु ।

आनुलोम्येन संभूता जात्या ज्ञेयास्त एव ते ।

स्त्रीष्वनन्तरजातासु द्विजैरुत्पादितान्सुतान् ।

सहशानेव तानाहुर्मतृदोषिविगार्हितान् ॥

'Sons begotten by member of the (four/several) castes a lawful married wives, belonging to their respective social orders(castes) in the due order of their enumeration, and with unraptured hymens (at the

time of marriage), should be regarded as the best (of sons) Sons begotten by twice- born ones on wives not belonging to their respective castes, do not become of the same castes with their fathers; they belong to different castes. Sons begotten by members of twice born castes on wives belonging to their next inferior castes (in the order of enumeration) are said (by Manu) not to obtain the castes of their fathers owing to the degraded castes of their mothers.

Thus it is evident that 'mixed castes' were a reality of the day. The great details on the names of various mixed castes, their origination, and their states and duties, to which an entire chapter (x) of the Manusmriti is devoted, indicates that this reality exercised a great deal of concern amongst the lawgivers, since it was imperative that they deal with this real threat in a manner which did not lead to rupture of society.

In the literary records, the two most prominent example of inter varna marriage are provided by the heroes of the Mahabharata. Of the Pandavas, Bhima, gets married to an asura woman Hidimba, while his younger brother Arjuna married a Naga Princess, Ulupi. Both the women were quite clearly not even within the varna society. As one was an asura and another of naga origin. Instances, other than the above are also mentioned in the Mahabharata. In the Adi Parva there is a reference to a Brahmana having a Nisadha as his wife. Garuda, who

accidentally swallowed a Brahmana, says that " a Brahmana will never be killed by me." The Brahmana thus addressed, asks Garuda to let my wife who is a Nishadha come out with me."⁽³²⁾ Another instance which is worth mentioning in the context of inter-varna marriage is the conversation between Devyani, the daughter of sage Sukra, and Yayati, the Kshatriya king, again found in the Mahabharata, Devayani says, " Brahmanas have already been mixed with Kshatriyas , and Kshatriyas with Brahmanas. You are a son of a Rishi, and yourself a Rishi. Therefore, O son of Nahusa, marry me."⁽³³⁾ Yayati, in the same breath replies to Devyani, " O beautiful lady, the four orders have no doubt sprung from one body. But they have different duties and virtues, which are not same(for every order.) The Brahmanas are superior to all."⁽³⁴⁾ The point which can be noted is that Yayati was the son of sage Nahusa, who now regarded himself as a Kshatriya.

The Manu Smiriti, too refers to inter varna marriage, when it says;

पाणिग्रहणसंस्कारः सवर्णासूपदिरयते ।

असवर्णास्वयं ज्ञेयो विधीरुद्धाहकर्मणि ॥

"The ceremony of joining hands is prescribed for (marriages with) women of equal caste (varna), know that the following rule (applies) to wedding with females of a different caste (varna)."⁽³⁵⁾

Apart from these above mentioned texts, in the classical Sanskrit literature, there are well recorded instances of inter-varna marriages, as illustrated by the following examples. In the *Malavikagnimitram* of Kalidasa, Agnimitra, the son of a Pushyamitra Sunga and a Brahmana, marries Malavika, who was a Kshatriya princess. So also is mentioned in the *Harsha Charita* of Bana, where Bana himself says that he had two Parsava brothers, Chandrasena and Matrishena (that is, step brothers from a Sudra wife of his father, a Brahmana) Rajasekhara, teacher of King Mahendrapala of Kanoj, says in his *Karpura Manjari*, that his wife Avanti Sundari was descended from the Chauhan family, whose origins are Kshatriyas.

From the above mentioned accounts if it becomes clear that, the whole system of inter varna marriage goes against the view on endogamy. This indicates that endogamy was merely an idealistic postulate difficult to sustain if the sub systems had to work in tandem. Hence as Louis Demont says, "a distinction has to be maintained"⁽³⁶⁾ between (a) the true marriage, a woman's first marriage: primary marriage⁽³⁷⁾ and (b) an inferior marriage,..... a secondary marriage.⁽³⁸⁾ The latter could be contracted due to widowhood, divorce or in the absence of the two former categories, on the basis of the custom levirate.

The Manu smiriti too makes a distinction between primary and secondary marriages and says

सवर्णान् द्विजातीनां प्रशस्ता दारकर्मणि ।

कामतस्तु प्रवृत्तानामिमाः स्युः क्रमशो वराः ॥

शूद्रैव भार्या शूद्रस्य सा च स्वा च विशः स्मृते ।

ते च स्वा राज्ञश्च ताश्चस्वा चाग्रजन्मनः ।...

For the first marriage of twice-born men (wives) equal caste are recommended; but for those who through desire proceed (to marry again) the following female (chosen) according to the direct order (of the castes), are most approved. It is declared that a Sudra women along (can be) the wife of a Sudra, she and one of his own caste (the wives) of a vaisya, those two and one of his own caste(the wives) of a Kshatriya, those three and one of his own caste (the wives) of a Brahmana.⁽³⁹⁾

The primary and secondary marriages are thus explained by Dumont, as, "In the case of a woman we shall call the first marriage the primary marriage. Once this marriage has been contracted, either it is indissoluble even by the death of the spouse (superior castes) or else the woman may, after her husband's death or even after divorce, contract another union, legitimate, but infinitely less prestigious, involving much less ritual and expense, which we shall call secondary marriages..... In the case of a man his first marriage becomes the principal marriage only

if it bears him children, preferably sons. But a man has an option, either in the case of the barrenness of the first marriage, or freely in others castes (royal, etc.), or taking other wives, either with full rite (necessary for the wife if she has not been married before) or with secondary rite (if the wife has already been married). Thus for a man there are supplementary or subsidiary marriages, with corresponding hierarchy of wives.⁽⁴⁰⁾ Thus the conclusion that can be drawn is that

- (a) the best marriage is between a man and a woman of the same Varna and for the first time for both contracting parties, and
- (b) the second marriages allow for freer association between all castes and hence provide the explanation for inter-varna marriages. "When they are concerned elsewhere with marriage, the authors ignore this distinction, but in practise they exclude *pratiloma* unions in connection with marriage. Only *anuloma* unions can count as marriages, although such marriages are not always approved. The point is confirmed by considerations relating to inheritance, in which only a man's sons by equal or inferior women are counted, since it is reasonable to identify right to inheritance with legitimacy."⁽⁴¹⁾ This point is further elaborated by the same author by linking the "structural difference between *anuloma* and *pratiloma*

marriage (as abstract possibilities. Anuloma marriages when men take wives from inferior category (varna, ...) could jeopardize the status of the group (or lineage), and so one may count on the group forbidding or limiting it.....". From the above mentioned hypothesis arises the following facts in terms of primary marriage. Hence the correct forms of marriage would be:

- that of a Brahmin man with a Brahmin woman, resulting in Brahmin children
- that of a Kshatriya man with a Kshatriya woman resulting in Kshatriya children
- that of a Vaisya man with a vaisya woman resulting in vaisya children
- that of a Sudra man with a Sudra woman resulting Sudra children.

However, if anuloma was the tolerated form of marriage, it provided for apart from primary marriage between men and women of similar caste, the following leverage in terms of marriage association,

- a Brahmin was could have secondary marriages with Kshatriya, Vaisya and Sudra women.

- A Kshatriya man could have secondary marriages with Vaisya and Sudra women.
- a Vaisya man could have secondary marriages with Sudra women only.
- a Sudra men were not allowed marriages with woman of higher castes.

Commenting upon this very state of affairs Vasistha opines, "three wives (are permitted) to a Brahmana according to the order of the castes, two to a Kshatriya, one to a Vaisya and one to a Sudra."⁽⁴²⁾ The Institutes of Vishnu too declare the same, when it opines, "Now a Brahmana may take four wives in the direct order of the (four) castes; a Kshatriya, three; a Vaisya, two; a Sudra, one only."⁽⁴³⁾

Thus, if the primary objective of varnas was to maintain social regulation and order in society in order to fulfill economic imperatives, the prevalence of inter-varna marriage was an impediment and a highly visible and pervasive phenomenon at that. Thus, in order to avoid transgression of duties, which in turn would have affected their ability in the true discharge of assigned functions, the deterrence was imposed through laws on inheritance. Laying down the rules on inheritance Vasistha says - "The son of the Brahman's wife shall receive three shares; the son of the Kshatriya wife shall receive two shares; the

other (sons) shall inherit equal shares;"⁽⁴⁴⁾ Vaisistha, however, does not mention the off-spring from a Sudra wife.

The ordinances according to Vishnu enjoin, that; "If there are four sons of a Brahmana (springing from four different wives) of the four castes, they shall divide the whole estate of their father into ten parts; of these let the son of the Brahmana wife take four parts; the son of a Kshatriya wife three parts; the son of a Vaisya wife two parts; the son of the Sudra wife a single part"⁽⁴⁵⁾. Again, the Visnu Dharma Sutra continues in very next verse and says, "Again, if there are three sons of a Brahmana (by wives of different castes), by no son by a Sudra (wife) among them, they shall divide the estate into nine parts.

- (of these) let them take each in the order of his caste, shares amounting to four, three and two parts of the whole respectively"
- (if there are three sons by wives of different castes, but) no Vaisya among them, they shall divide the estate into eight parts, and take four parts, three parts; and one part respectively."⁽⁴⁶⁾

Thus from the above and the subsequent verses it can be adduced that the inheritance of the sons was in all circumstances was as follows:

The Brahmana son getting four parts.

The Kshatriya son getting three parts.

The Vaisya son getting two parts.

The Sudra son getting one part.

The distribution of property always remains the same, and in case of the fact that there is no Kshatriya son, those very many parts are deleted from the division is made from seven parts, but the amount of share distributed does not change, i.e., remains four, two and one. The example is given below:

"If there are two sons of a Brahmana wife, and one son by a Sudra wife, the estate shall be divided into nine parts; of these, the two sons of the Brahmana wife shall take two parts, the one son of the Sudra wife, a single.

- If there are two sons by a Sudra, and one son by a Brahmana wife, the estate shall be divided into six parts; and of these, the son of the Brahmana wife shall take four parts, and the two sons of the Sudra wife together shall take two parts.
- Upon the same principles the shares have to be adjusted in other cases also."⁽⁴⁷⁾

This logic indicates that although the Sudra was given the least share—i.e. one part; yet in the absence of son from wives of any other caste the proportion of the share was not a stagnant one-tenth but was divided into parts as seven if there was no Kshatriya son, and thus the

Sudra son got one-seventh of the part. So also if there were two Sudra sons it did not mean that he got half of one part, but the total division of property took into account two parts (of one each) for each Sudra son. So it can be said that although anuloma marriage were disagreed upon, sudden rupture in society was avoided by making provisions for a son inheritance by a lesser wife, albeit limited.

Writing in the coming next few centuries Manu expounds -

“Or let him who knows the law make ten shares of the whole estates, and justly distribute them according to the following rule:

चतुरोऽशान्द्विप्रस्त्रीनंशान्भत्रियास्तुतः ।

वैश्यापुत्रो हरेद्वद्वयंशमंशं शूद्रास्तुतो हरेत् ॥

-----The Brahmana (son) shall take four shares, the son of the Kshatriya (wife) three, the son of the Vaisya shall have two parts, the son of the Sudra may take one share.”⁽⁴⁸⁾

Thus Manu talks in the similar vein as that of the Visnu Dharma Sutra about the property being divided into ten parts and the Sudra son get only a tenth share in it. Hence Manu says-----

यद्यपि स्यात्तु सत्पुत्रोऽप्यसत्पुत्तोऽपि वा भवेत् ।

नार्थिक दशमांशश्चाच्छूद्रापुत्राय धर्मतः ॥

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चतुरोऽश्वान्हरेद्विप्रश्चैत्र्यश्वान्शान्वात्रियासुतः ।

वैश्यापुत्रो हरेद्वयं श्वशंशं शूद्रासुतो हरेत् ॥

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नार्थिक दशमाच्छाच्छूद्रापुत्राय वर्मतः ॥

“Whether (a Brahmana) have sons or no son (by wives of the twice-born castes), the (heir) must according to law, give to the son of a Sudra (wife) no more than a tenth (part of his estate).”⁽⁴⁹⁾

In the very next verse Manu enjoins --

ब्राह्मणक्षत्रियविशां शुद्रोपुत्रो न रिक्थभाक् ।

यदेवास्य पिता दद्यात्तदेवास्य घनं भवेत् ।।

“The son of a Brahmana, a Kshatriya and a Vaisya by a Sudra (wife) receives no share of the inheritance; whatever his father may give to him, that shall be his property.”⁽⁵⁰⁾ This is not contradictory to the provisions of the earlier in respect of sons of twice born by Sudra women who are not their married wives. Thus from the above two verses it can be seen that the liberality of the earlier times gave way to a much more hardened stance, whereby the Sudra son received only a share which could amount to only the tenth part. So it could be said that the degree of deterrence of such anuloma marriage was enhanced but the son from Sudra wife was still not denied a share in the father's property. A share in the paternal inheritance was also allowed even to those sons born of an unsanctioned marriage. Thus indicating that despite the fact that such unions were frowned upon the offsprings of such union could not be ostracized as denial of similar right to one major group would have meant the functional disbalance of society, which had to be

avoided at all costs, keeping in mind the need to maintain the structural and functional unity of the varna system.

A sentiment which recognises the social reality of mixed marriage, and without desiring to alienate a section of society, provides for certain leverages, other than those mentioned on laws of inheritance. The Manusmriti says (X.41).

सजातिजानन्तरजाः षट् सुता द्विजधर्मिणः ।

शूद्राणां तु सवर्माणः सवैदपथ्यसजाः स्मृताः ॥

"Of sons begotten by twice born ones (Brahmanas and Kshatriyas) on wives of their own castes or on wives belonging to castes next, or next by one to those of their own, six castes (of sons) have the right of being initiated with the thread (the privilege of twice bornship), and the next are Sudras, partaking of the status and privilege of Sudra."

The entire approach to anuloma marriages is a self contradictory approach, however, if studied against the background of analysis tools used by modern management theories, an understanding of the contradictory push and pulls it becomes more comprehensible. The analysis tools used here would be the SWOT analysis. The representation of the exercise would be as: S→ Strength, W→ Weakness, O→ Opportunity, T→ Threat.

Thus the threat to the varna system was the prevalence of inter-varna marriages and their and their offsprings whose presence if not recognised in society would cause a systemic dysfunction, leading to the collapse of the functional sub-component. Thus an opportunity was found, whereby partial and limited acceptance was given to such offsprings, but the strength of the system was blustered by providing maximum of rights and privileges to offsprings of primary marriages. Hence, again the reinforcement and motivation (through reward) was provided to those who followed the proper conduct of their sub-system component, thus allowing for its propagation and at the same time allowing it to retain a separate yet distinct identity within the larger system. In the case of partiloma marriage, such injunctions were carried out in more harsher strictures.

The marriage sacrament in India had multiple forms. From the time of the Grhyasutras, Dharmasutras and Smrities the forms of marriage are said to be eight. The Baudhyana Dharmasutras says, “(There are) eight marriage rites.”⁽⁵¹⁾

There marriage-rites are listed as:

(i)Brahma (ii) Prajapati (Pragapatya), (iii) Arsha, (iv) Daiva, (v) Gandharva, (vi) Asuras, (vii) Rakshasas, (viii) Paisacha

The Manusmriti also says the same as Baudhyana, and discourses :-

चतुर्णामपि वर्णानां प्रेत्य चेह हिताहितान् ।

अष्टादिमान्समारोह स्त्री विवाहान्निबोधत ॥

ब्राह्मो दैवस्तथैवार्धः प्राजापत्यस्तथासुरः ।

गान्धर्वो राक्षसश्चैव पैशाशश्चाष्टमोऽथमः ॥

“.....the following eight marriage-rites used by the four castes (Varna) which partly secure benefits and partly produce evil both in this life and after death.” (They are) the rite of the Brahman (Brahma), that of the gods (Daiva), that of the Rishis (Arsha), that of Pragapati (Pragapatya), that of the Asuras (Asura), that of the Gandharvas (Gandharva), that of the Rakshasas (Rakshasa), and that of the Paisacha (Paisacha).⁽⁵²⁾

From the above verses it can be said that Manu too accepted the number of marriage unions as being eight however, there was no unanimity about the ordering of these forms. The Visnu Dharmasutra on the forms of marriage says the following:-

“There are eight forms of marriage. The Brahma, Daiva, Arsha, Pragapatya, Gandharva, Asuras, Rakshasa, and Paisacha forms.”⁽⁵³⁾ Hence, Vishnu Dharmasutra too accepts the number of marriage-rites as eight, but the ordering is altered slightly as compared to the text which was its important predecessor, i.e. the Manusmriti.

Yajnavalkya too accepts the forms of marriage as eight and lists them in his work in the following descending order;—Brahma; Daiva;

Arsha; Kayah (because Ka in Brahmana means Prajapati otherwise called Prajapatya); Asura; Gandharva; Rakshasa, Pisacha.⁽⁵⁴⁾

The conclusion that can be drawn is that most of the important Dharmasutra writers and Smriti writers accepted the marriage forms as eight, although the ordering of rites varied from author to author. It is impossible for want of space to set out the various definitions of the several forms given by various authors. But most authors have a general agreement on the special characteristics of each, and which can be enumerated as from Manu Smriti.

आच्छाद्य चार्चयित्वा च श्रुतिशीवते स्वयम् ।

आहूय दानं कन्याया ब्राह्मो धर्मः प्रकीर्तितः ॥

“The gift of a daughter, after decking her (with costly ornaments) and honouring (her by presents of jewels), to a man learned in the Veda and of good conduct, whom (the father) himself invites, is called the Brahma rites.”⁽⁵⁵⁾

यज्ञे तु वितते सम्यकृत्विजे कर्म कुर्वते ।

अलंकृत्य सुतादानं दैवं धर्मं प्रचक्षते ॥

“The gift of a daughter who has been decked with ornaments to a priest who duly officiates at a sacrifice during the course of its performance, they call it the Daiva rite.”⁽⁵⁶⁾

एकं गोमिथुनं द्वेवा वरादादाय धर्मतः ।

कन्याप्रदानं विधिवदार्धो धर्मः स उच्यते ॥

“When (the father) gives away his daughter according to the rule, after receiving from the bridegroom, for (the fulfillment of) the sacred law, a cow and a bull or two pairs, that is named the Arsha rite.”⁽⁵⁷⁾

सहाभौ चरतां धर्ममिति वाचानुशास्य च ।

कन्याप्रदानमर्थं प्राजापद्यो विधीः स्मृतः ॥

“The gift of a daughter (by her father) after he has addressed (the couple) with the text, “May both of you perform together your duties, and has shown honour (to the bridegroom), called in the Smriti the Pragapatya rite.”⁽⁵⁸⁾

जातिभ्यो प्रविणं दत्त्वा कन्यायै चैव शक्तितः ।

कन्याप्रदानं स्याच्छ्रद्धादासुरो धर्म उच्यते ॥

“When (the bridegroom) receives a maiden, after having given as much wealth as he can afford, to the kinsmen and to the bride herself, according to his own will, that is called the Asuras rite.”⁽⁵⁹⁾

इच्छायान्योन्यसंबोगः कन्यायाश्च वरस्य च ।

गान्धर्वः स तु विज्ञेयो नैधुन्यः कामसंभवः ॥

“The voluntary union of a maiden and her lover one must know (to be) the Gandharva rite, which springs from desire and has sexual intercourse for its purpose.”⁽⁶⁰⁾

हत्या छित्वा च भित्वा च क्रोशन्तीं रुदतीं गृहात् ।

प्रसङ्ग कन्याहरणं राक्षसो विधीरुच्यते ॥

“The forcible abduction of a maiden from her home, while she cries out and weeps, after (her kinsmen) have been slain or wounded and (their houses) broken open, is called the Rakshasa rite.”⁽⁶¹⁾

सुप्तां मतां प्रमतां वा रहो वसोपगच्छति ।

व पापिष्ठो विवाहानां पैशाचश्चाष्टमोऽधमः ॥

“When (a man) by stealth seduces a girl who is sleeping, intoxicated, or disordered in intellect, that is the eighth, the most base and sinful rite of the Paisachas.”⁽⁶²⁾

The Baudhayana Dharmasutra mentions the same details and it further adds, with regards to those eight marriage forms the following injunctions:-

Among these (eight rites) the four first (named) are (lawful) for a Brahmana. Among these also each earlier named is preferable.”⁽⁶³⁾

- “Among the (four) later (named rites) each succeeding one is more sinful (than the preceding ones)”⁽⁶⁴⁾
- “Among these the sixth and seventh agree with the law of the Kshatriyas. For power is their attribute.”⁽⁶⁵⁾
- “The fifth and eight (are lawful) for the Vaisyas and the Sudras.”

- "Some recommend the Gandharva rite for all (castes), because it is based on (mutual) affection."⁽⁶⁶⁾

Manu gives various view points on the prescribed form of marriage rites for specific varnas. In III, 23 he says:-

षडानुपूर्ण्या विप्रस्य क्षत्रस्य चतुरोदवसान ।

विदूश्चद्रयोस्तु तानेव विद्याद्वाभ्यानिराक्षसान् ॥

"One may know that the first six according to the order (of Manu) are lawful for the Brahmana, the four last for a Kshatriya, and the same four, excepting the Rakshasa rite for a Vaisya and a Sudra.

Manu in III, 24 stating a second view, opines,

चतुरो ब्राह्मणस्याद्यान्प्रशस्तान्कवयो विदुः ।

राक्षसं क्षत्रियस्थैकमात्तुरं वैश्यशूद्रादयोः ॥

"The sages state that the first four are approved (in the case) of a Brahmana, one, the Rakshasha (rite in the case) of a Kshatriya, and the Asuras (marriage in that) of a Vaisya and of a Sudra".

A third option is provided by Manu when he says in III, 25.

पंचाना तु त्रयो घर्न्या द्वावघर्न्यो स्मृताविह ।

पैशाचश्चात्तुरश्रैचय न कर्तव्यो कदाचन ॥

"But in these (Institutes of the sacred law) three of the five (last) are declared to be lawful and two unlawful, the Paisaka and the Asuras (rites) must never be used."

Once again Kulluka providing explanatory notes says, that the five forms of marriage referred to in the next are the Prajapatya, the Asuras, the Gandhrva, the Rakshasa and the Pisacha. The three lawful forms are the Prajapatya, the Gandhrva, and the Rakshasa; the Prajapatya form is lawful for Brahmanas, the Gandharva, for members of all the four social orders; and the Rakshasa, for Vaisya and Sudras.

So also Vishnu says:- "Among those (eight forms) of marriage, the first four forms are legitimate for a Brahmana".⁽⁶⁷⁾ Thus for a Brahmana along with Kshatriya, the prescribed forms of marriage are only Brahma, Daiva, Arsa and Prajapatya.

Baudhayana writes that while for the Kshatriya, like the Brahmana, the first four marriage forms are agreeable, the forms of Asuras and Rakshasa marriage are also prescribed for the Kshatriya. The same author writes that the marriage rite of Gandharva and Paischa are prescribed for Vaisya and Sudra also. Thus it may be said that most law givers were in agreement that specific forms of marriages were allowed for specific varnas on the basis of their functional virtues.

Hence, the first four marriage forms are universally recommended for the Brahmanas and the Kshatriyas. According to Kautilya and the fact that these marriages are dharmya implied that the element of patriarchal control over them was supreme, as opposed to the

unapproved forms where sanction of both parents was essential for sanctifying the marital union. R.S. Sharma, writes, "Apparently the dharmya character of marriage imposes upon all the obligation to observe them. But since the Brahmanas and Kshatriyas were charged with the responsibilities of upholding the social structure (dharma), it was essential that they should observe the approved forms of marriage."⁽⁶⁸⁾

P.V. Kane, too writes, "In the first four forms there is the gift of the girl (Kanyadana) by the father or other guardian to the bridegroom. The word 'dana' is here used in a secondary sense, viz, in the sense of transfer of the father's right of guardianship and control of the maiden to the husband..... Similarly in all the four forms where there is Kanyadana the girl is to be well dressed."⁽⁶⁹⁾

As it can be seen that in the Gandharva marriage the parental sanction was dispensed away with; since it was a 'voluntary union a between man and a woman arising out of mutual desire or consent. The Asuras form entailed a process similar to the sale of the girl. And lastly, in the Paisacha and Rakshasa forms, there was no gift from the father and both are or may be against the wishes of the girl. Thus to Brahmanas and Kshatriyas, who were the upholders of society, the duly regulated forms of marriage were prescribed and it was expected that they would not succumb to the lowly levels of the kind of marriage.

However, in addition to the prasasta (agreed/approved) forms of marriage, the Kshatriya was also permitted the Rakshasha marriage rite, according to Manu. Baudhayana, also recommends this marriage rite for the Kshatriya justifying it under as "power was their attribute."⁽⁷⁰⁾ In the Mahabharata, Krishna recounts to Arjuna, "The men learned in the precepts of religion say that in the case of heroic Kshatriyas, a forcible taking away of the girl for the purpose of marriage is also praiseworthy."⁽⁷¹⁾

"The Baudhayana Dharma sutra states, "The fifth and the eighth (are lawful) for Vaisyas and Sudras."⁽⁷²⁾ Thus Baudhayana recommends the Asuras and Paisacha marriage rite for the Vaisya and Sudra. And Manu, writes, ".....Asuras (marriage in that) of a Vaisya and a Sudra."⁽⁷³⁾ We can see that Asuras form of marriage is agreed upon by Baudhayana and he justifies the Asuras and Pisacha marriage for Vaisya and Sudra, Baudhayana, "For Vaisyas and Sudras are not particular about their wives, because they are allowed (to subsist by such low occupations as) husbandry and service."⁽⁷⁴⁾ Elaborating on this hypothesis it is commented, "Thus the two forms of marriages, the Asuras in which the importance of women is indicated by the price paid for her and the Paisacha which appears like a remnant as two lower varnas in ancient society."⁽⁷⁵⁾

A second reason based on Baudhayana's comment is given by R.S. Sharma when he says that, "This suggests that the employmentin the primary tasks of production makes it necessary for their women to participate in it and thus slackens the bonds of dependence upon their husbands, but the withdrawal of upper castes from the producing activities, and the consequent non-participation of their women folk in them, makes the latter comparatively much more dependent upon their male partners."⁽⁷⁶⁾

A marriage form which merits a much more elaborate discussion is the Gandharva marriage rite which is described as a union of between two lovers, without the consent of mother and father, is called a Gandharva marriage."⁽⁷⁷⁾ On the use of the Gandharva rite Baudhayana comments that, "Some recommend the Gandharva rite for all (castes), because it is based upon (mutual) affection."⁽⁷⁸⁾ Manu, too mentions that Gandharva form is permissible for all the four varnas. "One may know that the first six according to the order (followed by Manu) are lawful for a Brahmana, the last four for a Kshatriya, and the same four, excepting the Rakshasha rite, for a Vaisya and a Sudra."⁽⁷⁹⁾ The Vishnudharma Sutra mentions, "And so is the Gandharva form for a Kshatriya."⁽⁸⁰⁾ In the Adi Parva Mahabharata it is written, "The Gandharva and the Rakshasha forms are proper to the Kshatriyas,

therefore, you need not entertain the least fear. There is not the least doubt that either according to the mixed form of these two, marriage is proper to us, (and we may be married). O, beautiful lady, I am full of desire, so are you. You should, therefore, become my wife according to the Gandharva form."⁽⁸¹⁾ This point on lawfulness of Gandharva rite for Kshatriyas is brought out in the dialogue of Dushayanta to Shakuntala, whom he wishes to wed, in the absence of the latter's father. R.S. Sharma, quoting H.C. Chakladar on Vatsayayana says, "According to him in other forms of marriage considerations of birth, money, and other requisites really matter, but in contrast the Gandharva marriage is determined by mutual love." Thus R.S. Sharma feels that due to this factor that the Gandharva marriage was "non-aristocratic" and hence not fit for the members of the two higher varnas. The permission of the Gandharva for the Kshatriyas by the Dharmasastras may have been used by the nobles as a legal justification of their lust."⁽⁸²⁾

Baudhayana has suggested that Gandharva was a form of marriage based on mutual love and hence permissible to all varnas. In a Jataka (VI, 185 Cowell's translation) both the parties belong to the merchant class. The Kathasaritasagara has several examples of a Gandharva marriage, in which, in two cases the bridegroom is a Brahmana, in four he is a Kshatriya and in one, he is a prince, and in

one, a merchant's daughter is married to a thief. Thus it may be noted that Gandharva as a form of marriage rite was practiced by all varna groups. Hence we may see that the forms of marriage practice and rites differed in applicability from caste to caste. This aspect, however, cannot be regarded as a novelty of social traditions in the Indian social pattern. Some kind of discriminatory form of marriage regulations also have their parallels in Roman History. In Rome during the early Republic there prevailed three forms of marriage, usus, contarreatio and coemptio. Usus, which required no ceremony and was dissoluble at will, was an old plebian form of marriage. Coemptio which meant a deed of purchase giving the husband a contractual right to the possession of wife, was a later plebian form of marriage. Contarreatio involved a deed of transfer placing the bride under her husband's authority and was patrician form of marriage.⁽⁸³⁾ It can therefore, be argued that the marriage forms were also designed keeping in mind the sub component to which it could be applied, so that there was no breach in the orientation of the sub-system. Such a conformity enabled the smoother and well oiled functioning of any sub-component in the society. Just as the way in which the contracting of marriage relations was co-terminus with varna function, similarly the dissolution of marriage ties was conditional upon varna affiliations. Kautilya in his

Arthasastra provides that." Marriages contracted in accordance with the customs of the first four kinds of marriages, cannot be dissolved."⁽⁸⁴⁾ The Smriti writers are more liberal in their pronouncements. Manus states:-

बन्धाष्टमेऽदिववेद्याब्दे दशमे तु मृतप्रजा ।

एकादशे स्त्रीजननी सद्यस्तत्प्रियवादिनी ॥

"A barren wife may be superceded in the eighth year, she whose children (all) die in the tenth, she who bears only daughters in the eleventh, but she who is quarrelsome without delay."⁽⁸⁵⁾ However, if such a harsh tongued wife has given birth to a male child, she may be abandoned by her husband, but he will not be competent, in pursuance of a prohibition of Apastamba, to marry during her lifetime, as because of the male child, she has acquired the privileges of a dharma-patni.

Narada comments, "When husband and wife leave one another, from mutual dislike, it is a sin except when a woman, who is kept under supervision, commits adultery."⁽⁸⁶⁾

There are thus two views wherein Kautilya says divorce was not possible in the prasasta (approved forms) marriage, generally prevailing among the higher classes, but dissolution of the ties was permissible in certain conditions of adultery, barrenness and bad temperament. Thus it may be said that for the higher varnas dissolution was an impossibility

except under extraneous circumstances as mentioned above for the lower varnas the weakening of the bonds was simpler. A kind of caste correlation is also evident in the period of waiting provided for the wives.

On the period of waiting Kautilya writes as follows:- "Wives who belong to Sudra, Vaishya, Kshatriya or Brahman caste, and who have not given birth to children, should wait as long as a year, two, three, and four years respectively for their husbands who have gone abroad for a short time; but if they are such as have given birth to children, they should wait for their absent husbands for more than a year. If they were provided with maintenance they should wait for twice the period of time just mentioned." ... If the husband is a Brahman, studying abroad, his wife who has no issue should wait for him for ten years; but if she has given birth to children, she should wait for twelve years."⁽³⁷⁾

On the same issue Manu says:-

प्रोषितो धर्मकार्यार्थं प्रतीक्ष्योऽष्टौ नरः समाः ।

विद्यार्थं षट् यशोऽर्थं वा कामार्थं त्रीस्तु वत्सरान् ॥

"If the husband went abroad for some sacred duty, (she) must wait for him eight years, if (he went) to (acquire) learning or fame six (years), if (he went) for pleasure three years."⁽³⁸⁾

Narada views on the period of waiting are as follows:-

"Eight years shall a Brahmana woman wait for the return of her absent husband; or four years, if she has no issue; after that time, she may betake herself to another man.

- A Kshatriya woman shall wait six years; or three years, if she has not issue; a Vaisya woman shall wait four (years), if she has any issue; any other Vaisya woman (i.e. one who has no issue), two years.
- No such (definite) period is prescribed for a Sudra woman, whose husband is gone on a journey. Twice the above period is ordained, when the (absent) husband is alive and tidings are received of him.
- The above series of rules has been laid down by the Creator of the world for those cases where a man has disappeared. No offence is imputed to a woman if she goes to live with another man after (the fixed period has elapsed)."⁽⁸⁷⁾

From the views of Kautilya, Manu and Narada, it can be said that the period of waiting for a wife, whose husband was absent, went on increasing proportionately as one goes higher up the ladder. Since, the upper two varnas, and more specially the Brahmanas were regarded as promoters of morality and ethics in society in keeping with their functional sub-component of providing intellectual input, so the hold of

morality and its concomitant virtues upon them was the greatest . All these regulations were in keeping with a methodical ordering of the sub-components , and hence, its safeguard an ability; (in this case, morality and values) the disability (i.e. restrictions enjoined upon them by law) was the harshest for the Brahmanas. This it may be said, that the maintenance of legal stability of marriage was conditional upon caste or varna hierarchy.

In the final analysis, it can be said that varna and marriage were related to each other, and wherever connubium relations were discussed the authors of classical texts viewed these relationships to their positioning varna order for (a) maintaining the division of labour' and (b) regulation of societal norms. Both these aspects were essential for maintenance of society .

In conclusion marriages in ancient Indian society could be grouped into two categories.

- (i) The Intra-varna marriage: which were indispensable for maintenance of a perceived ideal construct of society, and
- (ii) The Inter-varna marriage of men of higher varna with women of the succeeding lower varna groups which was a reality and had to be accounted for in giving marriage constructs.

It could thus be said on the basis of above mentioned instances of inter-varna (anuloma) marriage and the references to "mixed castes" one now can realize the *"impossibility of claiming that caste and kinship are two absolutely water-tight compartments. Above all, while unifying the domain under consideration, we obtain an infinitely truer picture of things than if we supposed that the men living in castes either automatically respected the most drastic rules or were excommunicated; more over this would contradict the spirit of the system, which is more concerned to classify human possibilities in an hierarchical order than to exclude or punish those who do not conform to its ideal."*⁽⁹⁰⁾

NOTES

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CHAPTER VII

SUB-COMPONENT-III (LAW AND JUSTICE)

A society is an organised community, having a system of living within a collective union directed towards achieving a common objective. In pursuance of its goals, the organised community makes policies for governance, for its administration and also for its enforcement which are essential to sustain the organised society. It is said, "Each people has its system of social control. And all but a few of the poorest of them have as a part of the control system a complex of behavior patterns and institutional mechanisms that we may properly treat as law. For, anthropologically considered, law is merely one aspect of our culture - the aspect which employs the force of organized society to regulate individual and group conduct and to prevent redress or punish deviations from prescribed social norms¹."

Thus in order to prevent disputes from erupting into some forms of violent conflict, some mediating processes are necessary for resolution of conflicts. The mediation processes may take the form of peaceful adjudication, by the negotiation of compromise, or by the threat of social sanction.

The peaceful resolution of conflict can come through various measures which could be any of the following:-

*Community Action: This involves community action as a collective entity, and is especially widespread in simple societies which lack powerful authoritarian leaders².

*Informal Adjudication without Power: This is where the disputes are mainly settled by individual adjudicators who have no formal power/authority to enforce their decisions.

*Ritual Reconciliation – Apology: This is based on deference – the guilty party shows obeisance and asks for forgiveness. Such ceremonies tend to occur in recent chiefdoms³.

*Oaths and ordeals: These are those which involve appeals to the supernatural. According to John Roberts⁴, oaths and ordeals tend to be found in complex societies where political officials lack sufficient power to make and enforce judicial decisions, or would make themselves unnecessarily vulnerable were they to attempt to do so. Oath is an act of calling upon a deity to bear witness to the oath of what one says. An ordeal is a means used for determining the guilt or innocence, by submitting the accused to dangerous or painful tests believed to be under supernatural control. The agni priksha (trial by fire) of Sita was an ordeal.

*Codified laws and courts:- This form of adjudication exists in large, heterogeneous and stratified societies which are more likely to have more frequent disputes, which are at the same time less visible to the public. Individuals in stratified societies are generally not so dependent on community members for their well-being, hence are less likely to know of, or care about, others' opinions. It is in such societies that codified laws and formal authorities for resolving disputes develop – in order, perhaps, that disputes may be settled impersonally enough so that parties can accept the decision and social order can be restored.

On the subject of law in ancient India, Sir Henry Maine in his *Ancient Law* opines, "The Hindu Code, called the Laws of Manu, which is generally a Brahmin composition, undoubtedly enshrines many genuine observances of the Hindu race but the opinion of the best contemporary orientalist, is that it does not, as a whole represent a set of rules ever actually administered in Hindosthan. It is, in great part, an ideal picture of that, which in the view of Brahmins ought to be law"⁵ This statement of Maine presupposes the absence of any systematic procedural law during the time of Manu and other Smriti authors. In India the earliest conception of Law was 'Rita'. "In the Rig Veda, rita donates the supreme transcendental law or the cosmic order by which the

universe and even the gods are governed and which is ultimately connected with sacrifice"⁶

In Rig Veda (I.68.12) in a hymn devoted to Agni it is said

परि यदेषामेको विश्वेषां भुवद देवो, देवानां महित्वा .

This translated implies—

"All men are joyful in thy power, O God, that living from the dry wood thou are born."

All truly share thy Godhead while they keep, in their accustomed ways, eternal law".⁷

Similarly in Rig Veda (I,105,12) in a hymn dedicated to Visvadeva the functioning of the natural phenomena is regarded as Law, of the natural kind.

नव्यं तदुद्वक्ष्ये हितं देवासः सुप्रवाचनम् ।

ऋतानर्षन्ति सिन्धवः सत्यं तातान सूर्यो वितं मे अस्य रोयसी ॥

Which translated implies-

"Firm is this new-wrought hymn of praise, and meet to be told forth, O Gods. The flowing of the floods is Law, Truth is the Sun's extended forgiveness. Mark this my woe, ye Earth and Heaven."⁸

Again, in a hymn dedicated to Mitra-Varuna in the Rig Veda (I.136.2) it is said

अदशि गातरुखे दरीयसी पन्था ऋतस्य समर्यस्त रश्मिभिः । अक्षुमर्गस्य रश्मिभिः :

द्युर्धं मित्रस्य सादन मर्यम्णो वरुणस्य च ।

अथा दद्याते बृहदुक्थ्यं वय उपस्तुत्यै बृहद वय :

Which translates as-

“For the broad Sun was seen a path more widely laid, the path of holy law hath been maintained with rays, the eye with Bhaga’s rays of light.

-Firm set in heaven is Mitra’s home and Arya man’s and Varuna’s

-Thence they give forth great vital strength which merits praise, high power of life that men shall praise.⁹

In the hymn (I 164.11) of the in the Rig Veda the order of Natural Law is given a designated time period and space.

Thus it is said-

द्वादशारं नहि तज्जराय वर्धति चक्रम् परि घामृतस्य ।

आ पुत्रा अग्ने मिथुनासो अत्र सप्त शतानि विशतिश्च तस्थुः ॥

Which translates as-

“Formed with twelve spokes, by length of time, unweakened, rolls round the heaven this wheel of during Order. Herein established, joined in pairs together, seven hundred sons and twenty stand, O Agni.”¹⁰

This gives us 12 (spokes) months and 720 sons, which are 360 days and 360 nights and also the cyclical concept of time as against the ordinary linear concept of the west.

Thus S. Radhakrishnan opines that, "Rita literally means "the course of things." It stands for law in general and the immanence of justice. This conception must have been originally suggested by the regularity of the movements of the sun, moon and stars, the alterations of day and of night, and of the seasons. Rita denotes the order of the world. Everything that is ordered in the universe has Rita for its principle."¹¹

On the relation of rita and law Berolzheimer¹² says: "Closely connected with the religious and philosophical views of the Aryans are certain fundamental positions in regard to the philosophy of law which in turn became the antecedents of later legal and ethical developments among the Greeks and Romans."

P.V. Kane, in his History of Dharmasastra developing this line of thought points out: "Foremost among these philosophical conceptions is rita, which is at once an organised principle of the universe and the divine ordering of earthly life; as the former it regulates the appearances of the sun and the moon, of day and night and embodies the unchangeable principle that pervades the succession of phenomena; as the latter it is affiliated with purpose and human benefit and is exemplified in the flow of the rivers which fertilize the fields; the cattle useful to men; in the institutions of marriage, of the monarchical state; of the patriarchal home; and in man's sense of responsibility for his sins."¹³

Thus Rita becomes intimately connected with ethics and provides a standard of morality, and according to S. Radhakrishnan it is "the universal essence of things." Thus Rita becomes connected with various other terminologies.

Hence rita is translated into 'Satya' or the 'truth of things', and anrita is falsehood, the opposite of truth.

This distinction is brought out in the Rig Veda which cites (IV.5.5) the following in a hymn devoted to Agni-

अन्नातरो न योषणो व्यन्तः पातिरियो न जनयो दुरेयाः ।

पापासः सन्तो अनुता असत्वा ईद पदमजनता गभीरम् ॥

'Like youthful women without brothers, straying, like dames who hate their lords, of evil conduct.'

They who are full of sin, untrue, unfaithful, they have engendered this abysmal station. Hence, "the good are those who follow the path of Rita, the true and the ordered. Ordered conduct is called a true Vrata. Vratani are the ways of life of good men who follow the path of Rita."¹⁴

This ideal conception is evident in the Rig Vedic hymn (X.37.5) which states-

विश्वस्य हि प्रेषितो रक्षसि व्रत महेलयन्तउपरसि स्वधा अन् ।

यद्यद्य त्वा सूर्योपब्रयामहै तं नो देवा अनु मंसीरत क्रतुम् ॥

Which translates as,

"Sent forth thou guardest well the universe's law, and in thy wonted way
arise free from wrath.

When Surya, we address our prayers to thee to-day may the Gods favour
this our purpose and desire."

Thus in the concept of Rita one can clearly see the manifestation of the Platonic belief of "Universalia ante rem" (i.e. universals before the thing). Hence Rita meant originally "The established route of the world, of the sun, moon and stars, morning and evening, day and night." So consistency is the central feature of good life. The men of Vedas does not alter his ways. Varuna, the perfect example of the follower of Rita, is therefore, dhr̥tavrata, i.e. of unalterable ways.....Gradually it became the path of morality to be followed by man and the law of righteousness observed even by gods."¹⁵

The path of morality was thus eulogized as the conduct of men, hence, there is the conceptualization of dharma, as the term for conduct. And it was to be practiced repeatedly in the day-to-day life.

The Sanskrit term which came to be used for law was Dharma, which implied – "Dhryate Lokoha nena iti dharma" i.e. that which builds people. To this dharma, Sir Monier Williams gave various terms and terminologies and assigned meanings as that, which is established or firm,

steadfast decree, statute, ordinance, law, usage, practise, customary observance or prescribed conduct, justice, virtue, morality and religion.¹⁶

The terms Rita and Satya were distinguished in several passages of the Rig Veda. It says - (V.51.2)

ऋतधीतय आ गत सत्यधर्माणो अध्वरम् ।

अग्ने : पिबत जिह्वा ॥

"Come to the sacrifice, O ye whose ways are right, whose laws are true, and drink the draught with agni's tongue."

Thus ritadhitayah implied those whose thoughts were fixed on rita and 'Satyadharmarah' is one whose characteristic is truth or whose dharmas are true.

Once again the Rig Veda distinguishes between rita and Satya. It says a hymn - (X.190.1)

ऋतं च सत्यं चाग्नीध्वात् तपसोऽध्याजायत ।

ततो रात्र्यजायत ततः समुद्रो अर्णवः ॥

"Thou mighty Agni, gatherest up all that is precious for thy friend.

Bring us all treasures as thou art enkindled in libation's place.'

This implies that though both had sprang from tapas. Rita involves a wider conception and Satya originally had a restricted meaning (viz. truth or static order)

However, in another verse from the same text, where both rita and Satya occur, they mean the same thing (IX.113.4).)

ऋतां वदन्नुतद्युम्न सत्यं वदन तसत्यकर्मन् ।

श्रद्धां वदन् त्सोम राजन् धात्रा सोम परिष्कृत इन्द्रायेन्दो परि स्त्रव ॥

"Shared by all Gods, Infallible, the leader of our holy hymns,
Golden-hued Soma, being cleansed, hath reached the bowls."

However, the general inference was that Rita and Satya were different. This difference is brought out more clearly from the reference to the word anrita. This meaning is evident in the following verses of Rig Veda.

This distinction is apparent from the hymns of the Rig Veda which states (X.10.4)

न यत् पुरा चकृमा कद्ध नून मृता वदन्तो अन्ततं रपेम ।

गन्धर्वा अप्रवप्या च योषा सा नो नाभिः परमं जामि तन्नी ॥

"Shall we do now what we ne'er did aforetime? We who spake
righteously now talk impurely? Gandharva in the floods, the Dame of
waters - such is our bond, such our most lofty kinship."

Similarly, another verse quotes (X.124.5)

निर्माया उत्तरे असुरा अभूयन् त्वं च मा वरुण कामयासे ।

ऋतो न राजन्ननृतं विविधन् मम राष्ट्रस्याधिपत्यमेहि ॥

"These Asuras have lost their powers of magic. But thou, O Varuna, if thou dost love me.

O King, discerning truth and right from falsehood, come and be Lord and Ruler of my kingdom."

Yet another verse (VII.49.3) brings out the same idea when it says:-

यासां राजा वरुणो याति मध्ये सत्त्वानृते अपवश्यज्जनानाम् ।

मधुश्चुतः शुचयो वा : पावका स्ता आपो देवीरिह नामवन्तु ॥

"Those amid whom goes Varuna the Souran, he who discriminates men's truth and falsehood ..

Distilling meath, the bright, the purifying, here let those waters, Goddesses, protect me."

However, gradually Rita receded into the background and was replaced by Satya (Tai.Up.II.1.1.9.3.).

However later on Dharma came to be equated with Satya (Truth). The Brahadaranyaka Upanisad writes—

"He was not strong enough. He created still further the most excellent Law (Dharma). Law is the Kshatra (Power) of the Kshatra, therefore there is nothing higher than the Law. Thenceforth even a weak man rules a stronger with the help of Law, as with the help of the King. Thus the law is what is called the true. And if a man declares what is true, they say

he declares the Law; and if he declares the law, they say he declares what is true. Thus both are the same.¹⁷

What has been envisaged in the Brahadaranyaka Upanisad is the divine and metaphysical origin of Law. No contradiction is seen between the two as “the Rishis of the Upanisads are seers of truth, therefore, the truths which they come to know are identical with the commands of the creator.....”¹⁸ Hence, Dr. S. Radha Krishnan observes, “Even kings are subordinate to Dharma, to the Rule of Law.”¹⁹ Commenting upon this aspect of law, even Manu²⁰ concedes that,

सर्वो दंडजितो लोको दुर्लभो हि शुचिर्नरः ।

दंडस्य हि भवात्सर्वं जगद्भोगाय कल्पते ॥

“There is hardly any individual, in this world who on his own, is pure in his conduct.

King's (Sovereign) power to punish, keeps the people in righteous path. Fear of punishment (by the King) only yields worldly happiness and enjoyment.”

As far as law is concerned, another term also used that is vyavahara. The term is open to many interpretations, namely, that of a transaction or dealing²¹, dispute or lawsuit²², and legal capacity to enter into transactions²³. A fourth and rare sense is “the means of deciding a matter.”

P.V. Kane²⁴ uses the term vyavahara in the sense of “law-suit or dispute in court” and “a legal procedure.” He traces the antiquity of these senses to the centuries before Christ, wherein in the Delhi Topra Pillar Edict No. 1 of Asoka the term “Viyohalasamata” (i.e. Vyavaharasamata) is used. In the Hathigumpha Inscription of King Kharvela the word “Vyavahara vidhi” occurs

Katyayana gives two definitions of the term Vyavahara. The meaning is based on etymology, and refers principally to procedure and the other giving the conventional sense of having a dispute. In the former the, the term Vyavahara is analysed threadbare as under:-

Vi: means various

Ava: in the sense of doubt

Hara: in the sense of removing

Thus Vyavahara means the removing of various doubts.

Hence, Katyayana writes --

वि नानार्थेऽपि सन्देहे हरणं हार उच्यते ।

नानासन्देह हरणाद् व्यवहार इति स्मृतः ॥

प्रयत्नसाध्ये विच्छिन्ने धर्मरिण्ये न्यायविस्तरे ।

साध्यमूलस्तु यो यादो व्यवहारः स उच्यते ॥

Therefore, P.V. Kane says that this places the definition of justice on a high plane.

A second definition of vyavahara is 'when the ramifications of right conduct, that are together called dharma and that can be established with efforts (of various kinds such as truthful speech), have been violated, the dispute (in a court between parties) which springs from what is sought to be proved (such as a debt), is said to be vyavahara. Harita gives an easier definition of Vyavahara, and regards, "that is declared to be Vyavahara when the attainment of one's wealth (taken away by another) and the avoidance of dharmas of others (such as those of heretics) are secured with (the help of) the means of proof"²⁵. M. Rama Jois, writes- "Vyavahara means proceedings in a court of law between two parties in which violation of Dharma is established by proof"²⁶ An indication regarding the of Vyavahara (Law-suits) is provided by Narada which says,

धर्मकतानाः पुरुषास्तदासन् सत्यवादिनः ।

तदा न व्यवहारोऽभून्न द्वेषो नापि मत्सरः ॥

नष्टे धर्मे मनुष्याणां व्यवहारः प्रवर्तते ।

द्रष्टा च व्यवहाराणां राजा दण्डधरः स्मृतः ॥

'When people were Dharma abiding and truthful there existed neither hatred nor envy nor any legal disputes. Practise of dharma having declined in man-kind, law-suits (Vyavahara) were invented and the king was entrusted with the power to decide the law-suits as he had the

sanction of Dharma *to enforce obedience to, and to order punishment for* disobedience of, Dharma”

Manu²⁷ has made a searching analysis for the causes which result in civil or criminal injury as:

शुभाशुभफलं कर्म मनो यान्देहसम्भवम् ।

कर्मजा गतयो नृणामुत्तमावममध्यमा ॥

तस्येह त्रिविधस्यापि त्र्यविष्टानस्य देहिनः ।

दशलक्षणयुक्तस्य मनो विद्यात्प्रवर्तकम् ॥

परद्वन्द्वेयमिध्यानं मनस्तानिष्टर्चितनम् ।

वितथाभिनेदेश्च त्रिविधं कर्म मानसम् ॥

पारुष्यमनृतं चैन पैशुन्य चापि सर्वशः ।

असम्बद्धप्रलापश्च वाङ्मयं तस्याश्चतुर्विधम् ॥

अदत्तानामुपादानं हिंसा वैवाविधानतः ।

परदारोपसेवा च शारीरं त्रिविधं स्मृतम् ॥

This translates as follows:

“It is the auspicious or inauspicious effects of acts, born of mind, speech and body, which impart to men superior, middling, or inferior status, according to their respective natures.

The mind should be understood as the impellor of these three-fold (superior, middling or inferior) and three-located (i.e. born of speech,

mind and body) acts of an embodied self, which are possessed of the ten following attributes.

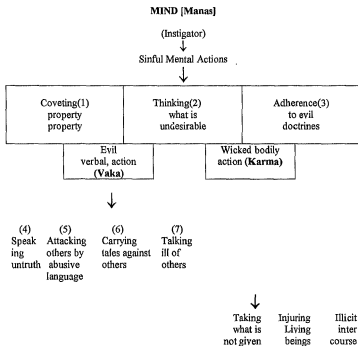
coveting other men's goods, planning evil to others and false notion as to the next life etc.) are the three inauspicious mental acts.

Harsh speaking, false speaking, speaking ill of another at his back and ideal gossiping are the four inauspicious lingual acts.

Receiving what has not been given, killing animal life (not according to the Regulation) and incest with another's wife are the three inauspicious body acts."

Hence it may be said that, action which springs from the mind, from speech and from the body produces either good or evil results. By action are caused various conditions of men. The mind is the instigator for all actions which are connected with and performed by the body. They are of three kinds and fall under ten heads. On the basis of Manusmriti origin, enumeration and classification of Vayavahara has been delineated in a Chart.

Manu's Analysis in Chart²⁸



Mana (mind), Vaka (speech) and Karma (action) are the trinity which contribute to the integrity of human character and personality.

Thus, the aforesaid analysis of the various evil mental, verbal and bodily actions cover the whole field of civil or criminal injury that an individual causes against another. The instigation comes from the mind. *Mens rea* is the first proof of culpability in the Indian Evidence Act. Thus, the sin first takes root in the form of mental action and thereafter expresses itself in the form of verbal or bodily evil actions which inflict civil or criminal injury as the case may be on others against whom they are directed²⁹.

While discussing the conceptualization of Law in ancient India, it is apparent that, it is in the Upanishads, that, the word 'law' is defined as per the understanding in modern jurisprudence. According to western jurisprudence, the law is an imperative command which is enforced by some superior power or sovereign. The superior power which serves as an instrument of coercion for the enforcement of law is called the 'sanction'.³⁰

Thus law consists of the general directives and command issued by the state to its subjects and enforced wherever essential, by the physical power of the state. Thus in the Indian concept also 'The law aided by the power of the King enables the weak to prevail over the strong'.³¹ The power of the King constituted the instrument of coercion which is highlighted by Manu (VII.22).

However, the one basic difference between the Western concept of law and Indian jurisprudence was that unlike the former, where the imperative command of the King constituted the law, in the latter, the law was a command even to the King and was held as superior even to the King. This is brought out most clearly in the Brihadaranyaka Upanishad which says -- "Law is the King of Kings; nothing is superior to Law." It was also impressed that the King remained powerful and derived his vitality from Law, and the efficacy of the law depended in the manner in which the King functioned, as he was responsible for its enforcement.

Thus on the basis of the above aforesaid discussion, two important characteristics of justice emerge in the sharp outline. Firstly, it is the mental state which is the originator of crimes and hence it is the mind which is to be controlled. Hence, Manu cautions all individuals to exercise self control in order to prevent sins from occurring. Hence he enjoins³²

वामदण्डोऽथ मनोदण्डः कायदण्डस्तथैव च ।

यस्यैते निहिता दुष्टौ त्रिदण्डीति स उच्यते ॥

त्रिदण्डमेतन्निक्षिप्य सर्वभूतेषु मानवः ।

कामक्रोधौ तु संयम्य ततः सिद्धिं नियच्छति ॥

That man is called Tridandin on whose mind he has three controls viz,

Manodanda (control over thoughts), Vakadanda (control over his speech), and, Kayadanda (Control over his body). He who desires these three controls with respect to all created beings and wholly subdues desire and wrath, assuredly gains complete success in life.

Secondly, the emphasis is on to maintain order, through control over wrongful action by justice. And, this justice is in the Indian context is always, the natural justice, as it derives its, origin from Rita and is above all, including the authority of kingly power

Hence, it will be appropriate to conclude that 'crime and punishment' in the Varna society should be considered against the backdrop of these two fundamental traits of Hindu jurisprudence. These two traits have necessarily to be studied within the relevant branches of law, viz.

- (i) the concept of offence (pataka)
- (ii) basic law governing punishment (prayaschitta)

The concept of offence in the Indian tradition had its origin from the word pataka (sin). This 'has its origin in the conflict of the self seeking habits of the individual with the common customs of any social group that ensure its survival in the struggle for existence'³³. '.....the Dharmasastras and the Smritis contained two distinct parts, viz, achara and vyavhara. The achara part of the Dharmasastras and Smritis laid down rules and regulation which were purely religious or pertaining to

the personal life of the individuals. The vyavahara portions, however, deal with civil and criminal laws'. The expression pataka has a very wide import. Any act of omission in violation of the rules laid down in the Vedas or as the achara as well as the vyavahara portion of the laws was considered as pataka.³⁴

Thus the significance which would attach to acts of omission as constituting a sin is brought out in full import by Manu³⁵, who writes:

यत्कर्म कृत्वा कुर्वश्च करिश्यंश्चैव लज्जति ।

तज्ज्ञेयं विदुषा सर्वं तानसं गुणलक्षणम् ॥

'When a person, while doing any act or while he is about to do any act, or after having done any act, feels ashamed (in his conscience), the law may know that all such acts bear the mark of the quality of darkness (Tamoguna). This concept of sin covers the entire gamut of all sinful or wrongful actions, i.e. acts done in violation of social, cultural or religious or moral rules, and includes acts in violation of any provision of law. In other words, every act contrary to Dharma in its widest sense was a sin.'³⁶

The other aspect related to offences was, that of reducing or removing the effects of sin, termed prayaschitta. By the age of the Smritis it was a stressed, with reference to the Satatapa Brahamana, that those who did not undergo the relevant and necessary prayaschitta for their sins would have had to suffer in the torments of hell, and

subsequently would be born as some insect, lower animal or stationary object due to the remnants of sin and also, that he would be born as a human being afflicted with certain diseases or defects. These two important consequences are described under the title of Karmavipaka (the fruition of evil deeds) and hence is an integral part of the punarjanama (rebirth) concept.

The Satatapa says the following, (I-1-4):

प्रायश्चित्तविहीनानां महापातकिनां नृणाम् ।
 नरकान्ते भवेज्जन्म धिह्नांकित शरीरिणाम् ॥
 प्रतिजन्म भवेत्तेषां धिह्नं तत्पापसूचकम् ।
 प्रायश्चित्ते कृते याति पश्चात्तापवतां पुनः ॥
 महापातकजं धिह्नं सप्त जन्मनि जायते ।
 उपपापोद्भवं पंच त्रीणि पापसमुद्भवम् ॥
 दुष्कर्मजा नृणां रोगा यन्ति चोपक्रमैः शनम् ।
 जायैः सुरार्चनैर्होमैर्दानैस्तेषां शनो भवेत् ॥
 दुष्कर्मजा नृणां रोगा यन्ति चोपक्रमैः शनम् ।
 जायैः सुरार्चनैर्होमैर्दानैस्तेषां शनो भवेत् ॥

Yajnavalkya, who appears to have known about karmavipaka, writes the following;

अन्त्यपक्षिस्थावरतां मनोवाक्कायकर्मजैः ।
 दोषैः प्रयाति जीवोऽयं भवं योनिशतेषु च ॥

'The Jiva (individual soul), [affected] by the sins, begotten of acts, the mind, speech and the body, come by birth [to live amongst] degraded people, birds and stable objects, and in hundreds of other species.³⁷

Hence the concept of *prayaschitta* (*expiations*) was prescribed for all types of sins, i.e. for sins which constituted an offence under criminal act, but also for offences which did not come under the purview of criminal law. This is evident from the Apastambha Dharma Sutra (II.5.10.12-16) which says---

'The acharya shall order those who, while participating according to the sastras (in the privileges and responsibilities of their castes), have gone astray through the weakness of their senses to perform penances according to the dictates (of the Smritis) commensurate with their (sinful) acts. If they transgress their acarya's orders he shall take them to the King. The King shall send them to his purohita proficient in Dharma sastra and the science of government. He (purohita) shall order them to perform (proper penances) if they are brahmanas. He shall reduce them by forcible means except corporal punishment and slavery."

The enumeration of sins and their classification has gone on for a long time and various attempts were made. The Apastambha Dharmasutra classifies sins into two broad categories of:

- (i) pataniya (I.7.21.7)

(ii) Asucikara (I,7.21.12)

Thus, for the former Apastambha writes pataniya as those actions, which cause loss of caste. Similarly, asucikara are acts which make men impure.

Similarly, the Vasisthadharma³⁸ sutra divides the categorization of sins into three groups of - enasvins, mahapatakas, upapatakas. The Baudhayana Dharmasutra³⁹ divides sins into pataniya, upapataka and asucikara. Katyayana divided sinful acts into five classes viz, mahapapa, atipapa, pataka, prasangika, and upapataka.

In this great and varied classification of sins, the most heinous of the category was styled the mahapataka. From the days of the Chandhyoga Upanisad the number of the same has been given as five; namely Brahamahatya, Surapana, Steya, Guruvanaganagamah, Mahapatakisamasarga. Manu, commenting on the Mahapataka says--

ब्रह्महत्या सुरापानं स्तेयं गुर्वङ्गनागमः ।

महान्ति पातकान्याहुः संसर्गश्चापि तैः सह ॥

'Killing a brahmana, drinking (the spirituous liquor called) sura, stealing (the gold of a brahmana), adultery with a guru's wife and associating with such offenders). They declare (to be) mortal sins (mahapataka)⁴⁰.

Similarly, Yajnavalkya writes on the mahapataka:

ब्रह्महा मद्यपः स्तेनस्तथैव गुरुतल्पगः । एवे महापातकिनो यश्च तैः सह संयसेत् ॥

"A destroyer of a Brahmana, a drunkard, a thief and a violator of a preceptors bed, as well as those who associate with them, are (all) Mahapatakins⁴¹.

Thus in the smritis also these five sins are the most heinous of moral misdeeds, for which there was no atonement except death. In all the five aspects of crime the characteristic of guilt that is emphasized is of the highest degree of morality. But the natural question which arouses curiosity is that -- Why should Brahma-hatya be included as a Mahapataka? The answer is not far to see. The Brahmanas were the moral guides and pathfinders in society. Hence any attempt to physically assault them was regarded as unbecoming and against the systems approach to a society which stressed on larger good of society hence the inclusion of brahma-hatya as a heinous mahapataka (morital sin) was but a natural corollary of this line of thought.

Thus, as Apasthambha Dharma Sutra⁴² says--

'If he has slain a Guru or a Brahmana, who has studied the Veda and finished the ceremonies of a Soma - Sacrifice, he shall live according to this very same rule until his last breath. He cannot be purified in this life. But his sin is removed (after death).'

Manu⁴³ ordains that expiation of the guilt of Brahma-hatya is only possible under the following circumstances:

ब्राह्मणार्थे गदार्थे वा सद्यः प्राणान्परित्यजेत् ।

मुच्यते ब्रह्महत्याया गोप्ता गोब्रह्मिणस्य च ॥

त्रिवारं प्रतिरोद्धा वा सर्वस्वमवजित्य वा ।

विप्रस्य तन्निमित्तो वा प्राणालाभे विमुच्यते ॥

“He who unhesitatingly abandons life for the sake of Brahmanas or of cows, is freed from (the guilt of) the murder of a Brahmana, an (so is/he) who saves (the life of) a cow, or of a Brahmana.

If either he fights at least thrice (against robbers in defence of) a Brahmana's (property), or reconquers the whole property of a Brahmana, or if he loses his life for such a cause, he is freed (from his guilt).

He who thus (remains) always firm in his vow, chaste, and of concentrated mind, removes after the lapse of twelve years (the guilt of) slaying a Brahmana.”

The above said ordinance is to be read in conjunction with Manu, (XI, 90) which says –

इवं विष्णुद्विरुदिता प्रमाप्याकामतो द्विजम् ।

कामतो ब्राह्मायघे निश्कृतिर्न विधियते ॥

“This expiation has been prescribed for unintentionally (i.e. accidentally) killing a Brahmana; but for intentionally (i.e. wilful) slaying a Brahmana no atonement is ordained.”

Thus the analysis which obtains from the above references is that this prayascitta was *lenient if the crime was unintentionally committed*, but death was the only expiation if the crime committed was intentional and premeditated. *Our premise has been that attempt/objective* behind the Varna system was an attempt to build up a moral order, an ideal organization, hence the moral crime elicited the highest form of deterrence, that is, punishable by death. This degree of severity of punishment is not restricted to Brahmanas only but as P.V.Kane⁴⁴ writes, *it also extended to 'a man who slays the guru.(father, Vedic teacher).....'*, which indicates that such extreme punishment was not only for those guilty of slaying a Brahmana but also encompassed crimes against a father and teacher (who may not necessarily belong to the Brahmana category). Hence the underlying emphasis is always on upholding the core value of the society. This can also be seen in the modern world, where, for example, in Switzerland known for its secure banking policies, the most severe punishment is handed out for minor economic offences.

Although Brahma-hatya was a mahapataka, yet punishment awarded was not uniform, but here also a graded system of punishment was given on the basis of the degree of association which was accepted and enforced. The Apastambha Dharma Sutra⁴⁵ list three levels of association:-

“He who instigates to, he who assists in, and he who commits (an act, these three) share its rewards in heaven and its punishments in hell. He amongst these who contributes most to the accomplishment (of the act obtains) a greater share of the result.”

The Agni Purana increased the limits of the guilt by association to five degrees (173.3) as that of a karta (doer), prayojaka (inciter), anumanta (giving approval), anugrahaka (helping killer when he wavers or by offering protection to the killers against others, and nimitta.

Thus, what one discerns is that law was graded and all aspects, and extraneous circumstances were fully considered before dispensing justice, but the ethical nature of the crime decided its degree of severity.

Generally, it has been perceived that the inclusion of Brahma-hatya as a mortal sin was reflective of the entire system's tilt towards the Brahmanical dominance, and a modus operandi of reinforcing their premier status in society. However, as P.V.Kane, commenting upon Mitaksara (II.21) says – ‘The conclusion of the Mitaksara appears to voice the views of most writers that, if a brahmana becomes as an atatayin (as an incendiary, as a poisoner, as a kidnapper of women, or with the intention of killing or wresting a field), then, in self defence, one may oppose him without incurring any sin, but that if the brahmana offender meets death though the defender did not desire to kill him (but

only to stop him by causing injury short of death), the defender is not liable to be punished by the king and has to undergo a light expiation (i.e. he is not guilty of Brahmana's murder.)"⁴⁶ This view is expressed in similar by Manu (VIII.350-351).

Thus, one can say that if punishment for injuring/killing a Brahmana was extreme in its severity, at the same time the code of conduct for the Brahmanas (the moral guides for society) was supremely strict. This is evident in the next mortal sin of surapana.

Commenting upon the mortal sin of surapana, which Manu calls a mahapataka (vide Manu XI.55) it is said that all intoxicants are forbidden to Brahmanas at all stages of life, "madyam nityam brahmanas"⁴⁷ and likewise, "All intoxicating drinks are forbidden"⁴⁸. This is a supreme curtailment advocated for the Brahmanas, when it is enjoined that intoxicants other than sura prepared from flour are not condemned for kshatriyas and vaisyas, while sudras were not forbidden to drink any kind of intoxicant (including sura made from flour). Thus, it should also be read as, that if violence against brahmanas was punishable by the greatest degree of might, the restrictions upon the Brahmanas was also the harshest, as can be seen from above. The imposition of this restraint is not something which was enforced by men of other castes on the Brahmanas but by and amongst the Brahmanas themselves. The

genesis of this can be traced to the legend of Kacha and Sukra, wherein Sukra states – “Having been deceived while under the influence of wine, and remembering the terrible consequences of drink and total loss of consciousness, the result of it, and seeing before him the handsome Kacha whom he had drunk with wine while intoxicated, (the learned Sukra), with the wish of effecting reform in the manners of the Brahmanas, rose from the ground in anger, and spoke thus,

“That wretched Brahmana, who being unable to resist the temptation, will drink liquor from this day, shall be considered as to have committed the sin of slaying a Brahmana, and he shall be hated both in this and in the other world. I set this limit to the conduct of the Brahmanas everywhere.....”⁴⁹

The transgression of any sacred rule was severely punishable for Brahmana offenders, as was evident in the injunction of Angiras. Angiras (verse 3) who prescribes the penance of krichra and chandrayana for a brahmana partaking of the food of an antyaja, half of these for a kshatriya or vaisya guilty of the same.

--A similar application of harshest of expiations is given by Angiras. Angiras, (verse 3) states that the penance of Krichra and Chandrayana was to be carried out by a Brahmana for partaking the food of an

antayaja. However, for the same offence by a Kshatriya or Vaisya only half of the expiation was the prescribed norm:

The term Krichra is a general word used for several penances, and it includes three variants. The first Krichra is also called Prajapatya and this entails that one should eat sacrificial food for three days only by day and eat nothing at night, ~~then, for three days more one should eat at night~~ only, then for three more days one should not beg or ask for food from others and should then observe a complete fast for three days. If he is in a hurry to purify himself he should pass the day standing and the night in a sitting posture. The second type is the Krichra - samvatsara where the penance is undergone continuously in a cycle for one year. And the third type is that of the Krichratikrichra, is defined as a Krichra where only water is drunk on those days on which food is allowed, and this penance frees a man from all sins, this taste for about 21 days, or depending upon the capacity of the sinner.

The Chandrayana is a rite where there is action by means of increase and decrease (in the intake of food) in imitation of the course of the phases of the moon. The Chandrayana is divided into two categories, as follows,

1. Yavamadhya (lit. being large in the middle like a grain of yava, and therefore tapering or thin at the ends)

2. Pipilikamadhya (lit. having a middle like that of an ant, that is slender in the middle and large at the ends)

Chandrayana (of the Yavamadhya type) is described as follows: On the sukla paksa of the month one morsel of food (grasa or pinda) is taken, on the second tithi two and so on; on the full moon (Purnamasi) 15 morsels are taken, then on the first day of the krsna paksa 14 morsels are taken, one being reduced on each succeeding day. So on the 14th day of the krsna paksa only one morsel is eaten and on Amavasya there is a complete fast. In the Paplikamadhya, like wise of one begins the fast. On the first tithi of the krisna paksha he reduces one morsel on the 1st that is, he consumes 14 morsels on that day, 13 morsels on the second day and so on. On the 14th day of the krsna paksa he eats one morsel and on amavasya he ets nothing. Then on the 1st day of the sukla paksa he eats one morsel and goes on increasing the intake till on purnamasi he takes 15 morsels.

As regards, the size of the morsels, different view are expressed, ranging from a size that shall not cause distortion of the mouth (while swallowing it), (to the size of an egg of a peahen, or hen's egg, to that of the size of an undried amlaka fruit. These variants are reconciled as conferring an option according to the capacity (sakti) of the man undergoing the penance.

Thus once again what is highlighted is the process which imposes punishment of extreme harshness upon the Brahmana for lapses of morality, which they were supposed to uphold and the quantum of punishment is lessened for other Varnas.

It is also said, brahmacharins of all Varnas studying the veda had to abstain from intoxicants of all kinds, as the rules of studentship expounded by Gautama⁵⁰ declared of a student -----“He shall keep his tongue, his arms, and his stomach in subjection.”⁵³ Thus, wherever ethical values were sought to be inculcated and moral high ground achieved, the degree of restriction was enhanced, as in the Brahmana or a Brahmacharin. Hence it would be incorrect to regard the judicial system as favouring a particular group or community.

It is generally stated that Brahmanas were exempt from corporal punishment, including death sentence. The reason though difficult to comprehend “..... could have been that the Brahmana was sacred or that at least his progeny might become useful to society by way of acquisition and dissemination of knowledge. The exemption from other types of corporal punishment could be as a concession shown to them having regard to the view that a Brahmana, who was not given to hard manual work, could not withstand corporal punishment.”⁵¹ The modern

prisons make provision of different classes for under trials and criminals based on their education and background.

Thus, if there was no corporal punishment for Brahmanas, an alternative punishment was prescribed for them - Banishment. This system is quite apparent from the law books. Hence, the Apastambha Dharma Sutra⁵² says ----'In case (a sudra) commits homicide, or theft, appropriates land (or commits similar heinous crimes), his property shall be confiscated and he himself shall suffer capital punishment. But if these (offences be committed) by a Brahmana, he shall be made blind (by tying a cloth over his eyes)."

Thus, Apastamba, frowns upon capital punishment upon a Brahmana.

So, also is enjoined by Gautama⁵³, who ordains, "Corporal punishments (must) not (be resorted to in the case) of a Brahmana. Preventing (a repetition of) the deed, publicly proclaiming his crime, banishment, and branding (are the punishments to which a Brahmana may be subjected)." Gautama too rejects corporal punishment, but says that Brahmanas can be banished from society for their guilt or given a higher punishment.

Thus Manu⁵⁴ says, in two different verses, an injunction which amounts to the same :

कौटसाक्ष्यं तु कुर्वाणांस्त्रीन्वर्णान्धामिको नृप :

प्रवासयेदण्डयित्वा ब्राह्मणं तु विवासयेत् ॥

“But a just King shall fine and banish (men of) the three (lower) castes (varna) who have given false evidence, but a Brahmana/he shall (only) banish.

दश स्थानानि दण्डस्य मनु : स्वार्थमुद्योग्रवीत् ।

त्रिषु वर्णेषु यानि स्युरक्षतो ब्राह्मणो व्रजेत् ॥

Manu, the son of the self-existent (svayambhu), has named ten places on which punishment may be (made to fall) in the cases of the three (lower) castes (varna); but a Brahmana shall depart unhurt (from the country).”

These two verses should be read in conjunction with Manu⁵⁵ again, who repeats the injunction when he ordains –

न जातु ब्राह्मणं हत्यात्सर्वपापेष्वपि स्थितम् ।

राष्ट्रदेनं बहिः कुर्यात्समग्रधनमक्षतम् ॥

“Let him (King) never slay a Brahmana, though he has committed all (possible) crimes; let him banish such an (offender), leaving all his property (to him) and (his body) unhurt.

न ब्राह्मणवधाम्यानधर्मौ विद्यवे भुवि ।

तस्मादस्य वर्धं राजा मनसापि न चिन्तयेत् ॥

No greater crime is known on earth than slaying a Brahmana; a king, therefore, must not even conceive in his mind the thought of killing a Brahmana.”

Similar, is the injunction of Yajnavalkya⁵⁶ who writes, in relation to laws relating to theft –

‘After having compelled him to return the stolen property [or to compensate its value], the king should destroy the thief with the various means of destruction. Having branded [the forehead of] a Brahmana [thief he] should banish him from his kingdom.’⁵⁹

Thus for the third mahapataka, the Brahmana was punished by banishment but no corporal punishment was awarded to him. But this refuge from corporal punishment was not universal. As Kautilya in his sloka 229 says –

राज्यकामुकमन्तः पुरघ्नघर्षकमटण्यमित्रोत्साहकं दुर्गराष्ट्रं दण्डकोपकं ।

वा शिरोहस्तप्रादीपिकं धातयेत् । ब्राह्मणं तमपः प्रवेशयेत् ॥

“A person who aspires for the kingdom, or makes forcible entry into the king’s harem, or is guilty of sedition or instigates disaffection or rebellion against the king, is liable to be burnt to death. Brahmanas committing similar offences shall be drowned.”

So also the Katyayana Smriti⁵⁷ states,

गर्भस्य पातने स्तेनो ब्राह्मण्यां शस्त्रपातने ।

अदुष्टां योषितं हत्वा हन्तव्यो ब्राह्मणोऽपि हि ।।

"A Brahmana is liable to the imposition of death sentence if he is guilty of causing abortion or commits theft of gold or strikes a Brahmana woman with a weapon or kills an innocent woman."

Thus it is indicated from the above references that the Brahmanas' exemption from corporal punishment and death penalty was very tenuous, and whatever was the earlier immunity granted to them, that was revoked when the victim was a woman, irrespective of her caste. This provision is further illustrated from a reference of the Sanskrit drama *Mrichchhakatika*. According to the drama, after the trial of Charudatta, a Brahmana, on charges of murdering a courtesan, Vasantsena, the Chief Justice recorded a finding of guilt against Charudatta. However, in forwarding his findings to king Palaka for the imposition of penalty, the Chief Justice cited from Manu the proviso of exemption of a Brahmana from the death sentence. But king Palaka did not agree with Manu's injunction, but in conformity with Katyayana, imposed death penalty upon Charudatta. "The killer of a Kshatriya or a Vaisya, initiated into the celebration of Soma sacrifice, shall practise the vow (i.e. penance) of the destroyer of a Brahmana. the destroyer of a foetus, or that of a women in her menses [must perform penance] as laid down for his caste."

(Yajnavalkya III. 251) which P.V.Kane says implied as having to "undergo the same expiation as for brahmana murder"⁵⁸.

यागस्थसत्रविद्धाती यरेह्मणि द्रतम् ।

गर्भहा च यथावर्णं तथात्रेयीनिष्ठदकः ॥

Thus it can be said the expiation for the murder of a Kshatriya and Vaisya performing a Soma sacrifice and murder of a foetus and woman deserved the same prayaschita as Brahmatya. Thus morality demanded that even the women as being the progenitors of the forthcoming generation and the first teacher of the child was equal to a mortal sin.

Narada writes:-

पुरुषं हरतः पात्यो दण्ड उत्तमसाहसः ।

सर्वस्वं स्त्रीं तु हरतः कन्यां तु हरतो वधः ॥

This translates as follows, "He who steals a man shall have to pay the higher fine. He who steals a woman shall have his entire property confiscated, he who steals a maiden shall suffer corporal punishment."

Hence, the conclusion that one can draw from Narada's injunction is that-

- i) The later Smriti authors were desirous of reducing punishment, especially capital punishment.
- ii) But this sentiment of reducing capital punishment was not applied where crimes against women were concerned. Thus crimes against women were especially regarded as heinous.

Thus, it may be said, that as far as corporal punishment goes, the Brahmanas may have enjoyed a lenient sentence and lighter punishment, but this view was not universal. It should also be noted that punishments, other than of a corporal nature, the penalty imposed upon the Brahmanas was higher, as in the case of theft. As Gautama⁵⁹ says –

“(The value of) property which a sudra unrighteously acquires by theft, must be paid eight fold. For each of the other castes (the fines must be) doubled.

Manu⁶⁰, for the same says –

अष्टापाद्यं तु शुद्रस्य स्तेये भवति किल्बिषम् ।

षोडशैव तु वैश्यस्य द्वित्रिंशत्क्षत्रियस्य च ॥

ब्राह्मणस्य चतुः षष्टिः पूण वापि शतं भवेत् ।

द्विगुणा वा चतुः षष्टिस्तदोषगुणविविद्ध सः ॥

‘In (the case of) theft the guilt of a sudra shall be eight fold, that of a vaisya sixteen fold, that of a kshatriya two and thirty fold, that of a Brahmana sixty-four fold, or quite a hundred fold, or (even) twice four-and-sixty fold; (each of them) knowing the nature of the offence.”

Similarly Katyayana⁶¹ writes.

येन दोषेण शुद्रस्य दण्डो भवति धर्मतः ।

तेन चेत्क्षत्रविप्राणां द्विगुणो द्विगुणो भवेत् ॥

If Kshatriyas or Brahmanas are guilty of an offence for which they are liable to be punished according to law, the quantum of penalty imposable upon them would be twice and four times, respectively, of the penalty imposable on a sudra for a similar offence.'

Thus the rule implies, in the above contexts, that the gravity of an offence was deemed to be higher, if the Varna status of the offender was higher. Thus, it can be concluded with some degree of reasonable finality that, "except (for) the exemption from corporal punishment, a Brahmana, who was expected to know Dharma better and was also expected to act according to Dharma, was to suffer a higher penalty."⁶² Higher the person greater the fall.

As, Gautama⁶³ says, "If a learned man offends, the punishment shall be very much increased."

This sentiment is clearly expressed by Narada who says (p.231 - 52 Dharmakosa 1752)

विद्यापि च विशेषेण विद्वत्स्वयधिकं भवेत् ।

"Knowledge makes all the difference. For a knowing person the punishment is especially severe". The rest of the proviso are similar to Manu VIII. 337-338. Narada also adds, that even among persons belonging to the same caste, knowledge of dharma by the offender

rendered the offence graver and consequently the punishment was more severe.

Katyayana gives a similar rule for Brahmana thieves in the following verses (824-825):

सहादमसहोद वा तत्त्वागमितसाहसम् ।

प्रगृह्णाच्छिन्नामावेद्य सर्वस्यैर्विप्रयोजयेत् ॥

अयः सन्दानगुप्तास्तु मन्दाभक्ता बलान्विताः ।

कुर्युः कर्माणि नृपतोरामृत्योरित कौशिकः ॥

"The King, after catching a Brahmana thief and proclaiming (publicly) his guilt whether he is caught with the stolen articles or not, should confiscate all his wealth provided his heinous crime is established - Brahmana thieves who are bodily strong should be guarded with iron fetters, fed on meager food, and subjected to hard labour till death, and this view is also that of Kaushika."

The above rule indicates that although the Smriti law givers were lenient in ward of corporal punishment, yet criminal conduct of the Brahmanas was highly condemned and were liable for other kind of heavy penalties, since they were learned men. While the western concept says, "ignorance of law is no excuse", in India, it is said "while ignorance of dharma is an extenuating factor, the knowledge of Dharma is an

aggravating factor,"⁶⁴ and this factor played a crucial role in deciding upon the quantum of penalty levied upon an offender.

क्षत्रियादीनामरमपि महापातकमाह च्यवनः ।

ब्रह्महत्या सूरापानं गुरुतत्त्वं ब्राह्मणसुर्वर्णहरणं द्विजानां महापातकानि ॥

अदण्डयदण्डनं युधि पलायनं क्षत्रियस्य ।

मानतुलान्मृतत्वं वैश्यस्य ॥

मांसविक्रयणं ब्रह्महत्या ब्राह्मणीगमनं

कपिलादुग्धपानं शूद्रस्य । '

From the above quoted lines, attributed to sage Cyavana, it said that, in the enumeration of mahapatakas, apart from the five basic ones enumerated, some are added for the four Varnas is as follows :

- (i) for Brahmanas : the five mahapataka remain
- (ii) for Kshatriyas: two more are added to the basic five which are
 - a) punishing one who should not be punished
 - b) fleeing from the battle field
- (iii) for Vaisyas : one more is added to the basic five and this is the employing of false weights and measures.
- (iv) for Sudras : four more are added to the basic five, which are
 - a. the selling of flesh
 - b. injuring a Brahmana
 - c. sexual intercourse with a Brahmana woman

d. drinking the milk of a Kapila cow.

It may be noted that for the Brahmana, the five mortal sins remain, while some new ones have been added for the other Varnas. These additional mahapatakas are actually symbolically indicative of the non-performance of their Varna duties. Hence in an organised system the non-fulfillment of their regular duties would indicate chaos, in an other wise organised system. This was a systemic failure, leading to disequilibrium and was like sounding of death knell in any management systems, hence, the extreme nature of deterrence with which it was punishable. The whole of the judicial system was not biased in favour of one group or category but was an entirely rational and organized system, which also sought to provide balanced judgement. Thus, one fact which had to be regarded in dispensing justice was whether the crime/lapse was kamatah or akamatah (i.e. intentional or unintentional). On this aspect Yajnavalkya⁶⁵ writes as follows:

प्रायश्चित्तरपैत्येनो यदज्ञानकृतं भवेत् ।

कान्तो व्यवहार्यस्तु वचनादिह जायते ॥

“Any sin, committed unknowingly, is expiated by penances. But a sin, committed knowingly [is not expiated by a penance].-----”

Similarly, the severity and extent of prayascitta depended also on the question whether a sinner had repeated the lapse or was a first time

offender. Mitaksara on Yajnavalkya III 293 states that for a sin that is committed knowingly the prayascitta is double of what is prescribed for the same sin if committed unintentionally and is repeated, then for the repeated lapse prayascitta is four times as much as that for the same deed done unintentionally.

Narada states a similar provisio (p.228-35, Dharmakosa, p.1749)

गरीयसि गरीयांसमगरीयसि वा पुनः ।

स्तेने निपातयेच्छं न यथा प्रथमे तथा ॥

'Let him (King) inflict a specially heavy punishment on a notoriously criminal thief or a lighter one on whose offence is of lesser magnitude. But let him not punish a first offender in the same manner as a habitual thief is punished.

Thus the implication of the above rule was that while the rules for punishment were guidelines, the actual quantum of punishment was to be decided keeping in mind the relevant facts as the gravity of the offence, the circumstances under which the crime was committed, and whether the accused was a habitual offender or not. Yajnavalkya in I, 368 repeats the similar view.

Similarly, the asrama to which the sinner belonged also made a difference in the prayascitta. As Angiras writes, when persons in other asramas are guilty of sins for which penance is prescribed, if committed

by householders, then prayascitta is increased in the same proportion that is laid down for sauca (bodily purity).

Vasistha writes,

“Such is the purification ordained for householders; it is double for students, treble for hermits, but quadruple for ascetics.”⁶⁶

A similar proviso is mentioned by Manu⁶⁷, who says:

एतच्छौचं गृहस्थानां द्विगुणं ब्रह्मचारिणाम् ।

त्रिगुणं स्याद्द्वनस्थानां यतीनां तु चतुर्गुणम् ॥

‘This is the (rule of) purification for householders; Brahmacharins; forest dwelling hermits, and anchorites (Yatis) shall respectively double, treble and quadruple the number (of purificatory measures laid down preceding couplet).

This shows that, while householders were awarded lesser punishment of asauca, this punishment increased in magnitude, so that it was maximum for the ascetic. Again the reason for this is not far to see. Amongst the lot of remaining three the Brahmacharin received the least punishment as he was still in the process of receiving and imbibing instructions. While the vanaprastin, was already aware of the validity of instructions, and was proceeding on to the next highest plane of spirituality. The harshest punishment was given to the ascetic who had attained spiritual highground, and hence a lapse by him violated against the virtues which

were contingent with his status, therefore, least leniency was shown on his lapses.

Other rules are also given for determining the quantum of penalty, which included that a child commits no offence, which half the normal punishment is given to very young and very old or diseased offenders etc.

As Mitaksara on Yajnavalkya writes (III, 243).

अशीतिर्यस्य वर्षाणि बालो वाङ्मूढोऽश्रुः ।

प्रायश्चित्तार्थमर्हन्ति स्त्रियो रोगिण एव च ॥

‘Old men over 80 years of age, boys below 16 (and above 5 years), women and persons suffering from diseases should be given half the normal punishment.

Another rule says,

एकं घन्तां बहूनां च यथोक्ता द्विगुणो दमः⁹⁸ ॥

When one is attacked by many, the punishment for each (of the offenders) shall be double of what has been ordained for a similar offence by a single person.

The above rules which say that a child, an old or diseased offender has to be dealt with lightly, and joint offenders are to dealt with severely, exhibits an extremely rational approach. A child below eight years could not be punished since obviously the child could not have committed the offence intentionally. Minors or infants upto 16 years or old people

above 80 years were to be subjected to half the penalty in view of their tender and very old age respectively, and half the penalty for women was keeping in line with the general policy of kindness towards women, which among other aspects took note of their tenderness and incapacity to withstand harsh punishment.

In conclusion hence, one can quote the following law-givers which say,

(i) As per Manu (VII.16, 26-27)

तं देशकालौ शक्तिं च विद्यां चावेक्ष्य तत्त्वतः ।

यथार्हतः संप्रणयेन्नरेष्वन्यायदर्तिषु ॥

"In due consideration of time, place, knowledge and specific nature of his offence he must inflict proper punishment on an offender."

तस्याहुः संप्रणेत्रारं राजानं सत्त्ववादिभम् ।

समीक्ष्यकारिणं प्राज्ञं धर्मकामार्थकोविदम् ॥

तं राजाप्रणयन्सम्यक् त्रिवर्गेणामिदर्थते ।

धर्माद्विचलितं हन्ति नृपमेव सत्त्वान्वयम् ॥

"Such a truthful, intelligent, inflictor of punishments, who is possessed of good deliberations and understands the principles of virtue, desire and wealth, men call the King.

The three category (of virtue desire and wealth) of the sovereign, who justly and properly inflicts punishment, become augmented, while

punishment destroys a self-seeking, sensuous, deceitful and arrogant king."

(ii) Gautama (XII.51) says

पुरुषशक्त्यपराधानुबंधविज्ञानाच्छण्डनियोगः ।

"The award of punishment (must be regulated) by a consideration (of the status of the criminal), of his (bodily) strength of the nature of the crime and weather the offence has been repeated."

(iii) Lastly Vishnu says,

अपराधानुरूपं च दंडं दण्डयेषु दापयेत् ।

सम्यग्दण्डप्रणयनं कुर्यात् ।

द्वितीयमपराधं न कस्यचित् क्षमेत ।

"Let the King inflict punishments upon the guilty, (a) corresponding to the nature (gravity) of the offence, (b) according to justice, and, (c) not to pardon anyone who has committed the offence for a second time.

Thus, it can be said that the Smritis are unanimous, that the essence of good governance of the system of law and justice was that just punishment should be inflicted upon those who act unjustly! (Manu VII.16), and this objective could only be achieved when considerations of age, the understanding of the capacity of the offender, the extenuating or aggravating circumstances, the time and manner under which the offence was committed, the reason for committing the offence were taken into

while awarding penalty. Only under such considerations could arbitrariness be avoided and the system maintained in a state of alertness and equilibrium.

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CHAPTER - VIII

SUB COMPONENT: IV-PURITY AND AUSPICIOUSNESS

The general theme running within the preceding chapters is an attempt to portray the varna organization as a systems approach. However, as most modern texts on management write – “The system approach defines an organization as a complex whole consisting of mutually interdependent and interacting parts which are viewed as sub-system. Therefore the approach is said to be holistic in nature assuming that whole is greater than the sum of its parts.”⁽¹⁾ The systems are broadly classified into four main groupings of:-

- (a) Physical systems: which are part and parcel of the nature or sub-system of it, totally governed and regulated by the nature, for example the solar system, seasons and rivers, etc.
- (b) Mechanical systems: these refer to those devices, which are based on technology, innovated by human beings for their betterment.
- (c) Biological systems: these are those systems which regulate particular life cycle having several sequential stages such as conception, birth, growth, maturity and decay, and death, etc.
- (d) Social systems: these are those which "have been developed by human being to facilitate co-operative working and to

overcome the problem of isolation and desolation..... is a relatively open system (because) it interacts with external environment and its survival depends upon its ability to cope with changing environment. Organizations get power, strength and inputs from environment and in turn strengthens and contributes to the functioning of environment. But organization may not be considered as completely open system. Because to some extent it has to preserve its identity, maintain stability and protect autonomy.”⁽²⁾

Thus, Varna organisation can also be put as a system developed by Indian society “to facilitate co-operative working, and at the same time had the aim to “preserve its identity, maintain stability and protect autonomy”. Hence, the varna order devised various rules of organization and interaction”..... The members of the different castes cannot have matrimonial connections with any but persons of their own caste; that there are restrictions though not so rigid as in the matter of marriage, about a member of one caste eating and drinking with that of a different caste; that in many cases there are fixed occupations for different castes; that there is some hierarchical gradation among the castes, the most recognized position that of the Brahmins at the top;.....”⁽³⁾

Inherent within the above statement is the whole idea of restrictions on interdining and interdrinking within or among the varnas, hence it is commonly perceived that both purity and auspiciousness are values with fairly obvious expressions in Indian society, and that both, moreover, represent fundamental scales of value pervading in Hindu social structure".⁽⁴⁾

M.N. Srinivas in his "Religion and Society among the Coorgs of South India," (1952) presents the two complexes of mangala (auspicious) on the one hand and of pole (impure) madi (pure) on the other hand, as separate categories. By the term mangala Srinivas refers to the rites of passage in the period of a biological life cycle, of which vivaha represents the ceremony par excellence, and hence nowadays the two terms (mangala & vivaha) are used synonymously. While pole and madi are concepts which are intimately connected to the social structure. However, M.N. Srinivas in his "The Remembered Village" (1976) abandoned auspiciousness as a major cultural category, whereas the words pole and madi are still used.

John Carman in his "Village Christians and Hindu culture" (1968) commenting upon purity and auspiciousness writes – "One is the state of ritual purity required to carry out certain religious acts... It is, however, the second opposite to ritual impurity, which is more

significant in the lives of most village Hindus. This is the 'auspicious' state. Whereas ritual purity is considered an unusual and temporary condition, except for ascetics who have placed themselves outside the ordinary structure of society, it is the auspicious state which is the quintessence of normal life in society. It is most fully realized in the state of marriage, and most clearly symbolized in the emblems which the married women is allowed and expected to wear."⁽⁵⁾

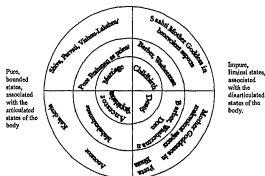
R.S. Khare, in the *Hindu Hearth and Home* (1976) once again raised the issues of purity and auspiciousness in the Hindu social structure. However, as said of his thesis "Here he connects purity with religious pursuit of the individual and further specifies that unless a householder intends to become a sanyasi, he emphasises auspiciousness (1976:157). This interpretation would restrict the meaning of purity to the pursuit of renunciation and liberation... However, another strand of purity cannot be disassociated from the whole social edifice...it is difficult to disassociate purity from the collective."⁽⁶⁾

Veena Das in the "Epilogue" of "Structure and Cognition" associates auspiciousness and inauspiciousness with events, such as the opposites of life and death, and writes ".....auspicious events

may be said to be associated with life, and are represented by the right side of the body while inauspicious events may be said to be associated with death, and are represented by the left side of the body the categories of auspicious and inauspicious seem to me to refer respectively to events involving life and future, and events involving death and the termination of a future^{u(7)}

Veena Das has prepared a diagram showing portion of such activities in rituals. It is reproduced below to show

auspicious activities associated with life and the right hand



And as Marglin writes, "Even though she does not title the bottom end of her vertical axis, the rest of the diagram leads us to expect that it represents "inauspicious activities associated with death and left hand." Childbirth is placed in the auspicious/impure

quadrant, death in the inauspicious/impure one and ancestor worship in the inauspicious/pure one."⁽⁸⁾

However death is not always an inauspicious event, for, if death overpowers a woman whose husband and children (especially sons) are living is regarded as an auspicious event.

Thus from a brief overview of the above arguments it can be suggested that purity and auspiciousness are inherent in Indian society. However, the more relevant question, keeping in mind the underlying emphasis on systemic approach on varna would be, that how was purity and pollution integrated into the varna order of a societal system.

One simplistic view on purity and pollution is the line of argument given by H.N.C. Stevenson⁽⁹⁾ who has reduced the aspect of food and drink to mechanistic categories of a form of contact. This contact between any two groups results in pollution. The pollution is once again divided into two groups,

- a) external pollution : this is superficial and can be eliminated by physical actions of a ritual bath or cleaning of the object.

- b) internal pollution: this is of a serious and deep nature relating to absorption of foods and sexual misdemeanours of women, to which the above mentioned expiations cannot be applied, and hence arises untouchability.

However, "only a fraction of the facts can be explained in this way his attempts amounts in the last analysis to the reduction of a very different world of beliefs and ideas to the specialized ideas of modern men about cleanliness and hygiene."⁽¹⁰⁾

Hence the most important issue in contact and which till today has led to a number of social conflicts in India is that of untouchability. As Dumont says, "We shall define untouchability in the way that is most current, by the segregation into distinct hamlets or quarters of the most impure categories. The feature is pan-Indian, as is the association with a religiously relevant function, quartering of dead cattle and consumption of meat, leather tanning, role in incineration or cleaning of rubbish and excrement, pig rearing and consumption of pork."⁽¹¹⁾

It is this form of untouchability which the Constitution of India tries to eliminate under Article 17 of our Constitution and through recourse to judicial measures. However, the position of the early Smriti's may be clarified on this position. The theory of the early

Smritis is that there were only four Varnas and there was no fifth Varna. The Manusmriti says (X.4)

ब्राह्मणः क्षत्रियो दैत्यस्त्रयो वर्णा द्विजातयः ।

चतुर्थ एकजातिस्तु शूद्रो नास्ति तु पंचमः ॥

The Brahmana, Kshatriya, and Vaisya are the three twice-born castes, the Sudra is the fourth, there being no Sub-castes among Sudras, and there is no fifth caste.

The Anusasanaparva (47.18) says the same thing

स्मृताश्च वर्णाश्चत्वारः पंचमो नाधिगम्यते ।

However, Manu in another verse declares (X.41):-

सजातिजानन्तरजाः षट् सुता द्विजधर्मिणः ।

शूद्राणां तु सधमणिः सर्वैः पश्यन्ते जाः स्मृताः ॥

Of sons begotten by twice-born ones (Brahmanas and Kshatriyas) on wives of their castes, or on wives belonging to castes next, or next by one to those of their own, six castes (of sons) have the right of being initiated with the thread (lit. the privilege of twice born ship), and the rest are Sudras, partaking of the status and privilege of Sudras.

Thus Manu declares that all pratiloma castes are similar to the Sudras in their dharma. Thus the pratiloma castes partake of the characteristics of the Sudras, but the fact that the Sudras in the Manusmriti, were never considered untouchables, implied that the

same aspect of untouchability could not have been extended to the mixed castes.

While this is the official position of the early Smritis, yet the beginning of the germs of untouchability are evident. In the initial stages, untouchability arose out of considerations of birth, and also extended to purposes, other than birth.

In the first case, of classifying untouchability by birth, a distinction has to be made between the Sudras and Chandalas. The genesis of this trait is evident in the Gautama Dharma Sutra which says the following verses,

(IV-18) Some declare, that a woman of the Brahmana caste has born successively to (husbands of) the (four) castes, sons (who are) Brahmanas, Sutra, Magadhas or Kandalas.

(IV-28) The last (named, the Chandala) is the foulest.

The similar origin of a Chandala is described by Vasistha (XVIII.1) and Baudhayana (I.9.7) by Manu (X.12) and Yajnavalkya (I.93). The Veda Vyasa Smriti (I.9-10) making a categorization amongst the Chandala says, that there are three kinds of Chandala, namely (i) as described earlier, he who was the offspring of a union between a Brahmana woman and a Sudra male, and in keeping with Gautama's injunction (IV, 25) enjoining that - "But those born in the inverse order

(from fathers of a lower and mother of a higher caste stand) outside (the pale of) the sacred law, "were treated as outcastes. The other groups who could be called Chandala were

- (ii) the offspring of an unmarried women
- (iii) the offspring of a union with a sagotra girl.

The above three injunctions are much against the sub component of connubium where anuloma marriages were barely tolerated, where liscentious was sought to be avoided by banning sagotra and sapinda marriages. And, lastly, again because an unmarried girl entering into physical union with a man, militated against the basic objective of a sanctified union for cooperation in fulfilling the obligations to social advancement. Hence, all the offspring of unsanctioned/disapproved form of social conduct were designated Chandalas, by virtue of the actions leading to their birth.

The visible traces of untouchability are present when the Apastambha Dharma Sutra (II.1.2, 8&9) enjoins, "As it is sinful to touch a Chandala, (so it is also sinful) to speak to him or to look to him. the penance for these (offences will be declared).

"(The penance) for touching him is to bathe, submerging the whole body; for speaking to him, to speak to a Brahmana; for looking at him to look at the lights (of heaven)."

Similarly Manu declares, (X.51)

चण्डालश्चपचानां तु बहिर्ग्रामात्प्रतिश्रयः ।

आपपात्राश्च कर्तव्या घनमेषां श्वगर्दभम् ॥

Chandalas and Svapacas (lit. dog-eaters) shall live at the out-skirts of villages, they shall use no utensils; dogs and asses being their only wealth.

Thus, the Manusmriti considers the Chandalas, as outcastes, asking them to stay outside the village boundaries. Once again Yajnavalkya (1.93) declares in more stringent tones;

ब्राह्मण्यां क्षत्रियात्सूतो वैश्याद्वैदेहकस्तथा ।

शूद्राज्जातस्तु चण्डालः सर्वघर्नबहिष्कृतः ॥

Thus, the Candala, who was 'sarva dharma bahiskritah' was driven outside the pale of all religious rites, and consequently regarded as an untouchable pariah.

Medhatithi in his commentary on Manu X.13, says

चण्डाल एकः प्रतिलोमोऽस्पृश्यः ।

i.e., that the only pratiloma, Chandala, is untouchable, and no bath is necessary for coming into contact with other pratilomas as suta, magadha, ayogava, vaidehika, and kstar.

Thus, one form of untouchability, i.e. that pertaining to the Chandala arose out of the dysfunctioning in the connubium sub-

system. However the other form of untouchability arose due to similar dysfunctionality but this pertained to the duty/value sub-component. Thus Manu (IX,235 & 238, 239) writes:-

ब्रह्महा च सुरापाश्र्व स्तौयी च गुरुतल्पग : ।

एते सर्वे पृथग्द्वेया महापातकिनो नरा :॥

A killer of a Brahmana, a wine drinker, a thief, and a defiler of his preceptor's or superior's bed should be respectively known as Mahapatakins (great sinners). Persons guilty of mortal sins were also branded as Chandalas.

Manu goes on to say in the context of Mahapatakins the following injunction-

असंभोज्या ह्यसंयाज्या असंपाठययिवाहिन :।

चरेयु पृथिवी दीना : सर्वधर्मवहिष्कृता :॥

ज्ञातिसंबन्धिभिस्त्वेते व्यक्तव्या : कृतलक्षणा :।

निर्वया निर्नमस्कारास्तन्मनोरनुशासनम् ॥

'No one shall eat with them, or serve them as priests, or teach them the Vedas, or marry their daughters to them; they must wander miserable in this world, ousted of all forms of virtue. their relations shall renounce these cruel miscreants, branded with the aforesaid signs and unto whom no one shall make obeisance. This is the ordination of Manu.'

Thus Manu, by his very injections will asks for severing of all religious, educational and social affiliations with the above category of people, and in all but, in name, declares them to be pariahs in society. Hence, this marks the beginning of social ostracism and segregation in society. However, it was also enjoined upon the second group of offenders, that if they performed the proper penance they would once again be regarded as 'touchable'. This was very necessary, as unlike the first lapse in morality, the second was a lapse, against which deterrence could be provided through correct retribution, and reformative expiations, after which the system would function as smoothly as before. This was in sharp contrast to the first lapse where the entire civilizational foundations were threatened by a new by-product.

There was third group of people who were designated untouchables were on account of "simply through religious hatred and abhorrence because they belonged to a different sect or religion. For example, Aparaka and Smriti Chandrika quote verse from the Satrimasan-mata and Brahamandapurana that on touching Bauddhas, Pasupatas, Jainas, Lokyatikas, Kapilas (Samkhyas) and brahmanas guilty of doing actions inconsistent with their caste one should enter the water with the clothes on and also on touching Saivas and

atheists.⁽¹²⁾ However, the explanation for this is not merely on account of some unjustified religious hatred, but since all of the above mentioned instances were seen as potent external threats in a relatively open system of the Varna, where any contact and influence of variant ideology would automatically disrupt the entire intellectual foundation of the system. Hence, any social contact with a potentially disrupting ideological phenomenon or threatening traits was strongly condemned through excommunication and social degradation, which inversely would shore up the prevailing foundations of Varna ideology.

Thus ostracism, of the social type, was enjoined upon groups, actions and activities which posed a threat to the entire sub-system. And at the same time, one can say that the spirit of exclusiveness and the exaggerated notions of purity were not a part of the early Smriti literature. This aspect is evident from the Manusmriti which says.(V.133)

नक्षिका विप्रवश्छाया गौरश्च : सूर्यरश्मयः ।

रजो भूर्वायुरग्निश्च स्पर्शं मेध्यानि निर्दिशेत् ॥

"Flies, particles of saliva escaped out of the mouth, shadow, the cow, the horse, the rays of the sun, dusts carried in the air, earth, fire and air have been held as pure in respect of their touch."

Medhalithi commenting upon Manu V 133, expressly says that the 'shadow' referred to here means "shadow of a Chandala and the like", Kulluka however, adds on Manu IV, 130 that on account of the word 'ca' in that verse the shadow of the Chandala was also included in the injunction of that verse. Yajnavalkya has a similar verse which recounts that - (I, 193)

रश्मिरग्नी रजश्छाया गौरैश्वो वसुधवनिलः ।

विप्रुषो मक्षिकाः स्पर्शो वत्सः प्रस्रवेन शुचिः ॥

'The rays of the sun, fire, dust, shade, cow, horse, earth, air, frost and fly, even when touched (by a Chandala) are (always) pure, [and, so] is a young one while sucking milk.'

Hence, it can be legitimately inferred that Manu and Yajnavalkya do not proscribe the extremes of exclusivity, as they did not regard the shadow of even a Chandala as defiling and impure, resulting in ritual impurity.

This view is further supported by two of Yajnavalkya's injunctions which go as follows:

अजाश्वयोर्मुखं मेघं न गोर्न नरजा मलाः ।

पन्थानश्च विशुद्ध्यन्ति सोमसूर्याशुमारूढौ ॥

'The face of a goat and a horse is pure, but that of a cow, or the impurities of a person's body are not so. The roads, are purified by the rays of the sun, moon, and the wind.'

This above verse, has to be read in conjunction, with another verse of Yajnavalkya (I, 197) which says, the following:-

स्थ्याकर्मतोयानि स्पृष्टान्यन्य श्रवणायसैः ।

मारुतेनैव शुद्ध्यन्ति पक्केष्टकैचितानि च ॥

'Mud and water lying on a roadside and buildings made of burnt bricks, when touched by Chandalas or by other degraded castes, and by dogs and crows, are purified by air.'

This rule thus highlights that the Smritis followed an extremely reasonable rule, and there was no prohibition on the movement of pratiloma castes, including the most degraded of them, the Chandalas included.

The reasonableness of these injunctions is evident in the quote of Satatapa, given in the Smriti Chandrika which declares-

ग्रामे तु यत्र संस्पृष्टिर्यात्रायां कलहादिषु ।

ग्रामसन्दूषणे चैव स्पृष्टिदोषो न विद्यते ॥

Which implies that no dosha (lapse) attaches in touching (untouchables) in a village (that is, on the public road), or in a

religious procession or in an affray and the like, and also when the whole village is involved in a calamity.

Similarly Brihaspati enjoins that there is no fault (and so no prayashcitta) if one comes in contact (with untouchables) at a sacred place, in marriage processions and religious processions, in battle, when the country is invaded, or when the town or village is on fire.

On the issue of the aspect of disability, as per untouchability in the early Smṛiti literature it can be concluded with reasonable certainty that, while untouchability as an aspect of ritual pollution was not present, however, the untouchability as in the aspect of social ostracism and exclusion was evident in cases. The presence of latter aspect was a necessary deterrence enjoined, as the actions were seen as factors debilitating the strength of the Varna structure and entire system in its holistic approach.

Apart from untouchability, the second aspect in purity and auspiciousness to that relating to food relations. E.A.H. Blunt⁽¹³⁾ sees them 'with the precautions of a magic ceremony' and lists seven kinds of 'taboo' on the whole issue of food contact, which can be listed as below:

- (i) With whom one eats?
- (ii) Who prepares the food?

- (iii) What sort of food?
- (iv) What are the ritual observances?
- (v) From whom one accepts water?
- (vi) With whom one shares a pipe?
- (vii) What vessels one uses?

However as Dumont says – “Some of these rules are not directly connected with caste” Dumont goes on to argue about ‘food in general’ as an encompassing feature in any social order and says “.....we shall find that, especially so far as cooked food is concerned, India presents features which are found elsewhere, and also that these ideas are elaborated in India in quite a special way.”⁽¹⁴⁾ Thus trying to trace the commonality between varna ideas on ‘food in general’ with other similar societies Dumont has argued for the same at the distinct levels of kinship and hypergamous relations. And argues that thus all these factors had implication in the varna system. Within this context I would like to quote extensively from Dumont's analysis on it. Dumont writes ____ “In a hypergamous environment,.....a father gives his daughter in marriage and simultaneously gives material goods to a family of higher status.....and food plays a two fold symbolic role. On the one hand, in conformity with the pattern of gift, the bride's father makes it

a point of honour not to receive anything in exchange, other than the reflected glory of his son-in-law's family, which will be of higher status than his own. It is said that the bride's father (or eldest brother) should not accept food, nor even water, from the bridegroom's family after marriage. Food is here a minimal material gift and its refusal is symbolic. It is a unilateral refusal, for the young husband eats freely at his father-in-law's when he stays there.(going) back to the marriage ceremony.....The bride's family offers the bridegroom a morning collation, and the tradition is that the bridegroom does not accept until he has been entreated at length. Here the bridegroom's superior rank betrays itself: to agree to eat with somewhat inferior people, the bridegroom claims a present.....(hence we assume) that underlying these customs is the idea that families of different lineages, united by marriage, have a distinct essence, and that, at first, the same goes for their food?.....parallels outside India: for example among the Nuer the son-in-law does not at first accept food from his wife's family, but only after a certain time."⁽¹⁵⁾ However Dumont concludes when he says, "In reality, accepting food and intermarrying are both important in their way, and strictly regulated. There is a parallel but not coincidence within caste, but the main thing is that food, as

opposed to marriage corresponds to relations outside the caste as well as within it.”⁽¹⁶⁾

As regards rules for food, pertaining to the issue of who shall cook it, the Apastambha Dharma Sutra states:- “Pure men of the first three castes shall prepare the food (of a householder which is used) at the Vaisvadeva ceremony.”⁽¹⁷⁾ Soon, in the same context it writes, once again,

“Or Sudra may prepare the food, under the superintendence of men of the first three castes.”⁽¹⁸⁾ Thus the Apastambha Dharma Sutra provides an injunction which says that food prepared by the three castes, and even by the Sudras, under supervision, was regarded as edible and pure enough to be used for sacrificial purposes. However, in the same text, appears a contradiction which says, that food provided or prepared by the Sudras is forbidden, vide the verse, “According to some (food offered by people) of any caste, who follow the laws prescribed for them, except that of Sudras, may be eaten.”⁽¹⁹⁾

This can be read in conjunction with a similar injunction which says

“Food offered by an artisan must not be eaten.”⁽²⁰⁾

Since, the Sudras, were allowed to take up mechanical arts implies it as a disability imposed upon the Sudra.

However, within the above mentioned two situations where food prepared by Sudras is permitted, it highlights two important criteria's one, which corresponds to the "personal hygiene" consideration given by Blunt, and second to the recourse arising from exceptional circumstances. Thus the explanations on personal cleanliness which are given are ---

"Besides, the (Sudra cooks) daily shall cause to be cut the hair of their heads, their beards, the hair on their bodies, and their nails.

And they shall bathe, keeping their clothes on.

Or they may trim (their hair and nails) on the eighth day (of each half month), or on the days of the full and new moon."⁽²¹⁾

These rules on mode of preparation of food were similar to those which were to be followed by other varnas also, as is once again evident from Apasthambha who on writing on/about purification for eating writes, hair, "on touching during sleep or in sternutation the effluvia of the nose or of the eyes, on touching blood, hair, fire, kine, a Brahmana, or a woman, and after having walked on the high road, and after having touched an impure (thing or man), and after having put on his lower garment he shall either bathe or sip or merely touch water (until he considers himself clean)"⁽²²⁾ Thus, the rule of hygiene

was something which all Varnas were essentially to follow under all circumstances.

On the Second issue of actions permissible under exceptional circumstances Apastambha writes, “(In times of distress) even the food of a Sudra, who lives under one’s protection for the sake of spiritual merit, (may be eaten). He may eat it, after having touched it (once) with gold or with fire. He shall not be too eager after (such a way of living). He shall leave it when he obtains a (lawful) livelihood.”⁽²³⁾ Thus it may be concluded with some degree of certainty that, the contradiction that food prepared by Sudras which could/could not be eaten indicates that there was no strict rule which prohibited interdining with Sudras. Simultaneously, another line of argument evident from the Apastambha Dharma Sutra is that, as regards foods not permitted to be eaten are those which have been prepared by Sudras. Within this category a group which could also be included was that of the Brahmanas, amongst others, who has strayed from his functional role. Thus it enjoins, “Nor (that of men) who live by the use of arms (with the exception of Kshatriyas).”⁽²⁴⁾ Similarly, it can be read, with the same negative injunction for “(Also) a Brahmana who has performed Dikshaniyesthi (or initiatory ceremony of the Soma Sacrifice) before he has bought the King (Soma).”⁽²⁵⁾

And Apastambha, adds on to say, "Likewise a learned Brahmana who avoids everybody, or eats the food of anybody, or neglects the (daily) recitation of the Veda, (and) he whose (only living) wife is of the Sudra Caste."⁽²⁶⁾

Thus, in all the negatively worded verses, it is clear that if anybody falls short on the performance of his duties, the food prepared by him becomes ritually impure. Manu, on the same subject, also exhibits the similar contradictions of the Dharma Sutras. In the chapter on the rules for a Snataka and a house holder, in two verses food prepared by the Sudra is forbidden. The verses are as follows:-

अभिशस्तस्य षण्डस्य पुश्चल्या दाम्भिकस्य च ।

शुक्तं पर्युषितं चैव शूद्रस्योच्छिष्टमेव च ॥

"By one accused of a mortal sin (Abhisasta), a hermaphrodite, an unchaste woman, or a hypocrite, nor (any sweet thing) that has turned sour, nor what has been kept a whole night, nor (the food) of a 'Sudra', nor the leavings of another man."⁽²⁷⁾

So also in an another verse it says—

नाद्याच्छूद्रस्य पक्वान्नं विद्वानश्राद्धिनो हिजः ।

आददीताममेवास्मा दत्तावेकरात्रिकम् ॥

-- "A Brahmana who knows (the law) must not eat cooked food (given) by a Sudra who performs no Sraddhas, but on failure of (other) means of subsistence, he may accept raw (grain), sufficient for one day and night."⁽²⁸⁾

Thus in the Manu Smriti, it may be seen that the restrictions on accepting food is not just limited to the Sudras, but within this list of prohibited groups a large numbers are listed⁽²⁹⁾. Moreover in the same list, it is worth noting that only those Sudras are on the prohibited list who have not performed the Sraddhas thus implying/infering that food prepared by other Sudras could be eaten. And, it is said that in the name of a systemic approach, reacting to the constraints of an external environment one could, "on the failure of (other) means of subsistence "accept food grains from the Sudras.

Similarly, on the topic of accepting food it is said, by Manu⁽³⁰⁾

त्रोत्थियस्य कर्द्वस्य वदान्यस्य च यार्धुषे : ।

मीमांसित्वोभयं देवाः सममन्नमकल्पयन् ॥

तान्प्रजापतिराहृत्य मा कृष्यं विषम समम् ।

श्रद्धापूर्तं वदान्यस्य हतमश्रद्धयेतरत् ॥

"The gods having considered (the respective merits) of a niggardly Srothiya and of a liberal usurer, declared the food of both to be equal (in quality). The Lord of created beings (Pragapati) came and spoke

to them, "Do not make that equal, which is unequal. The food of that liberal (usurer) is purified by faith, (that of the) other (man) is defiled by want of faith."

Thus it may be argued that it was also the considerations of personal virtues which merited/imparted upon the whole issue of purity and impurity, which was also extended to principle of accepting food.

The same chapter on rules for snataka and House holder in Manu⁽³¹⁾ Smriti, once again provides for leverage. It says—

गुरुष त्वभ्यतीतेषु बिना वा तैर्गृहे यसन् ।

आत्मनो वृत्तिमन्विच्छन्गृहीयात्साधुतः सदा ॥

आर्थिक : कुलमित्रं च गोपलो दासनापितौ ।

एते शूद्रेषु भोज्यान्ना यश्चात्मानं निवेदयेत्॥

"But if his gurus are dead, or if he lives separate from them in (another) house, let him, when he seeks subsistence, accept (presents) from good men alone. His labourer in tillage, a friend of his family, his cow-herd, his slave, and his barber are, among Sudras, those whose food he may eat, likewise (a poor man) who offers himself (to be his slave)".⁽³¹⁾ Hence the crucial phrase which governs this so perceived contradiction about the whole is the qualification for "good men alone (be it a friend) of the family, his labourer in tillage, cowherd, slave and barber." Hence sudras of a good personal

character and of virtuous disposition were not placed in the list of restricted groups as far as the question of "food in general" was concerned.

While on the issue of food relations it may be relevant to dilate briefly on another issue related to food, that is water, and transfer of food. Why is it that cooked food arouses a variety of restrictions and Taboos. Marcel Mauss's work on sin and expiation in Polynesia, regards cooked food polluting the forest, and at funeral banquets the food was cooked separately for people of different ranks and having different degrees of taboo. To eat the left over of an important taboo person would cause death. Taboo people were fed by others, and did not touch the food with their hands, people who handled a corpse 'gnawed' the food with their teeth without touching it with their hands. Whilst food (kai) is likely to lead to sin and death, water (wai) dispelled these dangers. In one sense, the fundamental sin is to cook, which desecrates things and destroys their essence. On this very basis Dumont draws a very close parallel with India, and provides a general interpretation and argues that for one thing, food once cooked, participates in the family who prepared it. It seems that it is appropriated like an object in use (pot, garment) but even more intimately and without entering the body, ingestion being only one

part of the matter. This is perhaps because, by cooking, food is made to pass from the natural to the human world and one may wonder whether there is not here something analogous to the marginal state in rites de passage, when a person is no longer in one condition nor yet in another and consequently exposed, open in some way, to evil influences. In India itself some most of these rites of passage correspond to an impurity which expresses the irruption of the organic into social life; now there is something of the organic in our case, as with excretion, and, with the necessary difference, there is if not true impurity at least an exceptional permeability to impurity."⁽³²⁾

The restrictions on the transfer of food vary according to the sort of food which was under review. In India, the categorization of cooked food is made into two large groups, i.e. the *kachcha* and *pakka*. As Hutton writes, "Food cooked with water as described is known as *kachcha*, and restrictions associated with it are much more severe than those associated with food known as *pakka*, which is cooked with ghee the distinction between '*kachcha*' and '*pakka*' food remains very important in that pollution is far more easily transmitted by the former than by the latter, which may be taken by a Brahman from a Halwai, from a Kahar, or from a Bharburja. Ghee, uncooked grain, or vegetables can be bought in the market even from

Muslims, but once cooked. Such food becomes Brahma and so must be treated with sacramental care."⁽³³⁾ There are no restrictions for raw food, which Mckim Marriott calls the food of gifts. This state of affairs is attested to by Manu,⁽³⁴⁾ who says a Brahmana may accept from a Sudra "raw grain" for subsistence. The Brahmana who performs a ritual service for an inferior caste often receives, for example, a small quantity of different sorts of food, something like the raw material of a meal, sidha, or provisions generally. The restrictions are greatest, by contrast, for ordinary or everyday cooked food, and wheat flour cakes cooked without fat. This is the Kachcha or imperfect food. The Kachcha food is venerable to impurity, and reserved, roughly speaking, for relatives or members of the endogamous group and servants of very inferior caste. Between, the two extremes of raw grains and cooked food, is the intermediary position of "perfect food, or pakka food, consisting of pancakes (flour cakes) fried in clarified butter, and vegetables fried in the same way. Dumont, commenting upon this role notes in brackets -- "notice the protective role of butter, a product of the cow."⁽³⁵⁾ Dahi, also a by product of cow's milk is 'perfect' food. Other food items which are considered pure are parched grain, i.e. those roasted in hot sand, eg lava, ciura)

The whole conceptualization of transfer of food is enhanced and enlarged, by taking recourse to the medium of pakka food. A study of this categorization, has been done extensively by Blunt in the state of Uttar Pradesh. Blunt in his study has considered seventy - six castes. Among them, thirty - six forbid all kacca not prepared by a member of the endogamous group (or by the guru, the spiritual master who is assimilate in the father), whilst ten castes only confine themselves to accepting pakka when it is prepared by a member of the caste, a guru, a halwai, or kahar servant. Sixteen and thirteen castes respectively accept kacha and pakka only from, in addition to the above, Brahmanas (and in some cases Rajputs). Finally, and most importantly, while only eighteen castes accept kacca from castes other than the above, forty five accept pakka under the same conditions. Hence it can be said that the transfer of food was not rigidly compartmentalized as some groups accepted pakka food from one category or the other. But one thing does emerge clearly and that is, that it was through the mechanism of pakka food which allowed for more extensive contact and relations within the social sysem amongst the various individuals and Varna members who peopled it.

Another aspect in the concept of contact and pollution relates to the notion of the rules concerning water. However, once again as

Blunt⁽³⁶⁾ has noted that distinctions are to be made: "A high caste man will allow a low caste man to fill his lota (drinking vessel) for him, but he will not drink from the lota of that low caste man." It can be adduced that while the object shares the caste of its owner and user, while water, an agent of purification itself becomes an agent of impurity, but a Brahmana can pour water for a sudra directly who drinks it in cupped palms. Thus from the above state of affairs on food, two important points of value emerge, which are

- a) cow and its products are agents of purification.
- b) water itself is a purificatory medium.

Water in the Indian context has been regarded a great purifier. The Rgveda attests to the purificatory nature of water, as can be seen below:-

आपो यं यः प्रयमं देवयन्त इन्द्रपानभूमिमकृण्वतेः ।

तं वो वयं शुचिमरिप्रमद्य धृतप्लुषं मधूमतं वनेम⁽³⁷⁾ ॥

May we obtain this day from you, o waters, that wave of pure refreshment, which the pious made erst the special beverage of Indra, bright, stainless, rich in sweets and dropping fatness.

Once again the Rgveda testifies to the purificatory nature of water by saying,

शतपवित्राः स्वद्यया मदन्ती देवीर्देवानामपि यन्ति याथः ।

ता इन्द्रस्य न भिनन्ति व्रतानि सिंधुभ्यो हव्यं घृतवज्जुहोत⁽³⁸⁾ ॥

All purifying, joying in their nature, to paths of Gods, the Goddesses move onward. They never violate the laws of Indra. Present the oil rich offering to the rivers.

Similarly, another verse of the Rgveda says--

या आपो दिव्या उतया स्रवन्ति खनित्तिमा उत या या : स्वयंजाः ।

समुद्रार्था याः शुचयः पावता स्ता आपो देवीरिह मामवन्तु ॥

यासां राजा वरुणो याति मध्ये सतयान्तते अवपश्चज्जनानाम् ॥

मधुरमुताः शुचयो या पावता स्ता आपो देवीरिह मामवन्तु⁽³⁹⁾ ॥

- Waters which come from heaven, or those that wander dug from the earth, or flowing free by nature, Bright, purifying, speeding to the Ocean, here let those water, Goddesses protect me.'

Those amid whom goes Varuna the Sovereign, he who discriminates men's truth and falsehood -- distilling meath, the bright the purifying, have let those Waters, Goddesses, protect me.

The two above hymns show that not only is water personified and worshipped as a divinity, but it also possesses qualities by which it acts as an agent of purification.

The nature of water as a purificatory agent is also evident from other hymns of the Rgveda, as given below.

तस्मा अरंगमाम दो वस्य क्षयाय जिन्यथ आपो जनयथा च न ।⁽⁴⁰⁾ ।

To you we gladly come for him to whose abode ye send us on;

And, waters, give us procreant strength. Again in the same

verse dedicated to waters of the tenth mandala it is stated

इदमापः प्र बहत यत् किं च दुरितं मयि ।

यद्वाहनभिदुद्रोह यद्वा शेष उत्तानृतम्⁽⁴¹⁾ ॥

Whatever sin is found in me, whatever evil I have wrought,

If I have ever lied or falsely sworn, waters remove it far from me.'

The nature of water as a purificatory agent is also attested to in the Manusmrit and Yajnavalkya smriti. Commenting upon the qualities nature of water Manu writes--

अदिर्भात्राणि शुद्ध्यन्ति मनः सत्येन शुद्ध्यति ।

विद्यातपोभ्यां भूतात्मा बुद्धिज्ञानेन शुद्ध्यति⁽⁴²⁾ ॥

Water purifies the limbs and bodily members (of a person), truthfulness purifies the minds; the individualized self is purified by knowledge and penitential austerities; and intellect (discriminative faculty) is purified by knowledge. Once again Manu writes, on water

निर्लेपं कांचनं भांडमद्विरेव विशुद्ध्यति ।

अंजमश्ममयं क्षेप राजतं चानुपस्कृतम् ।⁽⁴³⁾

A golden vessel, bereft of smear (i.e., not smeared with grease or any unclean paste), is purified by washing it with water; the same rule holds good in respect of articles made of stone, of aquatic substances and of unstriated articles of silver. The purificatory qualities of water are further substantiated in another verse which ordains.

यावन्नोपेत्यमेध्यात्काग्दन्धो लेपश्च तत्कृतः ।

तपयनमृद्धारि द्यादेवं सर्वासु द्रव्यशुद्धिश्च⁽⁴⁴⁾ ॥

An article, smeared with any impure substance, must be rubbed with earth and washed with water until the smear and its foul smell are removed. This is the rule in respect of the purification of all articles. Yajnavalkya, too agreeing with Manu on the latent qualities of water as purification agent writes-

सौवर्णराजताताड्यानामूर्ध्वपात्रघ्नहाश्मनाम् ।

शाकरज्जुमूलफलवासोविदलचर्मणाम् ॥

पात्राणां घनसानां च वारिणा शुद्धिरिष्यते ।

चरुक्षुक्लुवसस्नेहपानाषयुष्मो न वारिणा ॥⁽⁴⁵⁾

The above verses translate as follows:

"The purification of gold and silver (vessels), of pearl-oysters, sacrificial vessels, graha, stones, vegetables, cords, roots, fruits, clothes, vidala skin and others of (proksham) vessels, and chamasa

(milking vessels) is obtained by (mere) water, and that of charu, sruk, sruva and of other vessels covered with clarified butter, with hot water.

Once again Yajnavalka states

भूशुद्धिर्माज्जाहृत्कालाग्नोन्नमणात्तथा ।

सेकादुल्लेखनाल्लोपागृहं मार्जनलेपनात्⁽⁴⁶⁾ ॥

This verse implies, the purification of earth (is encompassed by) rubbing, burning, or in time (i.e. till the sign of the impure object is entirely destroyed), or by the sprinkling of the cow- dung and water, or by rain, or by digging, or by rubbing with cow dung. A house (is purified by rubbing, and pasting (with cow-dung)".

Thus since water regarded as being an agent of purification no stigma was attached to water itself, but confined in a vessel it acquired the properties of its owner and hence not allowed to be transferred that easily, a sit was open to the prospect of purity and pollution.

Similarly, the cow was as an animal venerated in the highest esteem in ancient India. The genesis of this veneration is evident in the Rig Veda, where the cow is equated with a goddess.

वचोविदं वाचमुदीरयन्तीं विश्वाभिर्धीनिरूपातिष्ठमानाम् ।

देवीं देवेभ्यः परैर्ययुषीं गामा मावृक्त मत्सौ दक्तचेताः ।।⁽⁴⁷⁾

This stanza is spoken by Aditi as a cow who remarks weakminded men have as a cow adopted me who come hither from the Gods, a Goddess, who skilled in eloquence, her voice uplifteth, who standeth near at hand with all devotion."

Ludwig has translated weak minded men 'as' "Men who are too feeble in their intellect to comprehend me in my true form and my real nature; they can only understand my worth in the shape of a cow."

This view has received support in the Atharvaveda (xii.4), where the holiness of the cow is again recognized and reinforced. The veneration for the cow was so great that the panchagavya, prepared from the five substances due to the cow viz. her milk, curds and ghee from her milk, her urine and dung mixed with water in which kusa blades⁽⁴⁸⁾ were placed was advocated as a purification for large variety of lapses.

गोमूत्रं गोमयं क्षीरं दधि सर्पिः कुशोदकम् ।

निर्दिष्टं पंचगव्यं तु पवित्रं पापनाशनम् ॥

गायत्र्या गृह्य गोमूत्रं गन्धोद्धारैति गोमयम् ॥

आप्यायस्वैति च क्षीरं दधि क्राण्णेति वै दधि ।

तेजोसि शुक्रमित्वाज्यं देवस्य त्वा कुमोदकम् ॥

Thus as is said - "A smiriti passage declares that he in whose house there is not even one cow with her calf becomes devoid of all mangalas (auspicious things) and darkness does not leave him."⁽⁴⁹⁾ Thus a cow was regarded to be holy in all her parts except her mouth, i.e. gavo medhya mukhad rte^{*(50)} so Manu ordains^{*(51)}

पक्षिजम्ब्यं गवाघ्रातमवशूतमवशूतम् ।

दूषितं केशकीटैश्च मृत्प्रक्षेपेण शुद्ध्यति ॥

An article, nibbled by a bird (whose flesh may be eaten), or smelled by a cow, or spitted upon, or trampled under foot, or defiled by the touch of an insect or hair, is purified by throwing earth over it.

This implied that while although the cow and its products were pure, yet the food smelt or sucked by the cow was not pure an such food smelt or licked by a cow must be purified.

Hence, on the issue of transfer of food and water, the import of the previous few pages reveals that

- (a) Water, by its very characteristics was pure, but on being confined in a vessel, it acquired the properties of its vessels and its user, hence became impure, therefore, direct transfer to the drinker eliminated the angle of impurity

- (b) Secondly food was made pure by giving it the protective covering of cow products, like clarified butter, curd etc.
- (c) The third category of 'pure' foods were roasted rice etc, which came into contact with heat only, hence heat; tapas a form of agni itself was pure, hence no impurity was attached to it.

The last on the agenda, in terms of "food in general" is the issue relating to vegetarianism which in India constitutes as a superior form of diet, and constitutes an essential norm relating to food and status. However, in the laws of Manu, a chasm exists between promoters of vegetarianism and its opponents, which indicates that vegetarianism was not a trait which had found widespread recognition and acceptance. Thus in Manu, there are various ordinances which favour meat eating state, some which discourage the entire practice of meat eating, consequently raising non-vegetarianism to great heights. Thus the various sayings of Manu which support the practise of meat eating say-

यज्ञार्थं ब्राह्मणैर्दध्याः प्रशस्ता मृगपक्षिणः ।

भृत्यानां चैव वृत्त्यर्थमगरत्यो ह्यचरत्पुत्रा^[52] ॥

For the purposes of a religious sacrifice, or for the maintenance of his dependents, a Brahmana can kill the commendable beasts and birds as did Agastya of yore.

Again, sanctifying the practise of eating meat Many writes,

वभूदुर्हि पुरोडासा भक्षणां मृगपक्षिणाम् ।

पुराणेष्वपि यज्ञेषु ब्रह्मक्षत्रसत्त्वेषु च ॥⁽⁵³⁾

Manu says that in the above verse,

"In religious sacrifices instituted by the Risis, Brahmanas, and Ksatriyas of yore, oblations of meat-cakes used to be made of the flesh of beasts and birds, (there in immolated)."

Once again in support, Manu ordains:

प्रोक्षितं भक्षयेन्मांसं ब्राह्मणानां च काम्या ।

यथायिधि नियुक्तास्तु प्राणानामेव चात्पये ॥⁽⁵⁴⁾

Residue of meat oblations, cast in the fire in a religious sacrifice, as well as that offered in a sraddha repast, may be eaten; flesh may be eaten at the request of Brahmanas, and in diseases, or under circumstances which imperil life.

In yet another verse Manu opines,

क्रीत्वा स्वयं वाप्युत्पाद्य परोपकृतमेव वा ।

देवान्तिर्तृश्चार्चयित्वा खादन्मांसं न दुष्यति⁽⁵⁵⁾ ॥

He, who having brought, or procures, or received the gift of, the flesh (of an animal), eats it after having first offered it to the manes and deities, it is not defiled thereby.

Manu, also says, that not eating flesh when ordained is also a sin.

नियुक्स्तु यथान्यायं यो मांसं नास्ति मानवः ।

स प्रेत्य पशुतां याति संवदनिकविंशतिम्⁽⁵⁶⁾ ।।

But the person, who being appointed to do a religious sacrifice, does not eat the (consecrated) flesh, will be re-born as a beast for twenty-one births in successions. (And Manu says that refusal to eat, offering of sacrificial meat condemns a person to lowly status).

Manu says, with a rider attached, that only permitted is the eating of consecrated flesh.

असंस्कृतान्पशून्मन्त्रैर्नाद्याद्विप्रः कदाचन ।

मन्त्रैस्तु संस्कृतानद्याच्छस्यतं विविमास्थितः ।।⁽⁵⁷⁾

However while enjoining the eating of flesh, only the consecrated variety of flesh is permitted, which given in the verse above translates as follows:

Let a Brahmana never eat the flesh of an animal, unconsecrated by Mantras; conforming to the eternal ordinance, he must always eat the consecrated flesh.

And lastly no disregard was attached in killing beasts according to sanctioned procedure and considerations. Hence, Manu does not in any way prohibit the eating of flesh.

एष्वर्थेषु पशुर्हिंसन्वेदतत्त्वार्थविदिजः ।

आत्मानं च पशुं चैव गमयत्युक्तां गतिम् ।⁽⁵⁰⁾

By killing beasts on these occasions, a Brahmana, conversant with the import of the Vedas, accords a more elevated status both to his own self and of the self of the (immolated) beast.

The occasions mentioned were as follows, on the offering the honey mixture to a guest; at a sacrifice and at the rites in honour of the manes. Thus from the import of the above verses, one can draw the inference that while no stigma was attached to consumption of meat,

Thus on the issue of the consumption of meat the Manusmriti sees it as an ancient practise established by the great sage Agastya, as a religious act in which eating of consecrated flesh was permitted by first offering it to the manes and deities. Thus the killing of sanctioned animals is permitted and it is also said this practice of eating flesh an acceptable practise to maintain dependents, in times of distress and in life threatening crisis. It is further argued that any individual who at a sacrifice refuses the offering of meat, will be reborn as that very beast for the next successive twenty one births. And most importantly it states, that if the killing of prescribed

animals is done in the correct manner, both the sacrificer and sacrificed can attain a higher and elevated status for themselves.

Although from the above verses the indication is that generally there was no opporprrium on the consumption of flesh, yet limitations on the consumption of flesh and restrictions on this habit are also stated side by side in the Manusmiriti. Hence, the text enjoins, as mentioned in the following verse.

स्वमासं परमांसेन यो बर्धयितुमिच्छति ।

अनभ्यर्च्य पितृन्देवांस्ततोऽन्या नास्त्यपुण्यकृत् ।⁽⁵⁹⁾

He, who otherwise than for the purposes of Sraddhas offered to the manes and deities tries to augment the flesh of his body with the flesh of a beast, is the greatest of all sinners. But even in consumption of flesh, the eating of flesh for pure pleasure considerations is disapproved of.

Similarly another verses says,

यज्ञाय जग्धिर्मंसिर्येत्येष दैवो विधिः स्मृतः ।

अतोऽन्यथा प्रवृत्तिस्तु राक्षसो विधिरुच्यते ॥⁽⁶⁰⁾

The eating the flesh on the occasion of a religious sacrifice is the divine ordination, to eat flesh for any other purpose is a monstrous practise. The similar meaning is conveyed by the verse mentioned below.

नाद्यादविधिना मांसं विधिज्ञोऽनापदि द्विजः ।

जग्ध्वा ह्यविधिना मांसं प्रेत्य तैरघतोऽवशः ॥⁽⁶¹⁾

(Otherwise than in times of distress) a Brahmana, who eats the flesh (of an animal) in a manner condemned by the Regulation, is eaten, defenceless, by that animal in the next world.

Manu decrying against senseless killing of beasts for flesh and consumption states.

यज्ञार्थं पशवः सृरुटा स्वयमेव स्वयंभुवा ।

यज्ञस्य भूत्यै सर्वस्य तस्माद्यज्ञो वधोऽवधः ॥⁽⁶²⁾

For the purposes of religious sacrifices the beasts were created by the self originated one, the sacrifice is for the elevation of the whole universe, hence killing is not killing in a religious sacrifice (Yajna). The import of the verse is an import pointer to the fact, that the spirit of conservation was inherent in Indian mindset of yore.

न ताहशं भवत्येनो मृगहन्तुर्वनार्थिनः ।

वाहशं भवति प्रेत्य वृथा मांसानि खादतः ॥⁽⁶³⁾

Lastly the above mentioned verse says, killing of animals, in the line of duty is not a sinful/wrong act.

A huntsman, who kills animals for money, does not acquire the same demerit in after life, as one who eats flesh in violation of the ordinance.

The import from the above verses indicates that while the decimation of animals for sacrifices was an accepted practise, yet killing animals for other than yajnas and their consumption other than at sacrifices and religious ceremonies was a highly condemnable action for which the perpetrator would be eaten by that animal in the next life/birth.

Hence, in the Manusmriti there is inherent an apparent contradiction in which eating of flesh is on the one hand is permitted; yet in the same breath a number of restrictions are imposed on this dietary practise. Thus we have the Manusmriti two apparently contradictory values in thought preception. One that which sees nothing wrong in flesh eating, a second which restricts this dietary practise only to consecrated flesh on sanctioned occasions. Yet again a third aspect is introduced in the Manu, which views abstention from meat consumption as being equivalent to the merit gained by the performance of a hundred asvamedha, and henceforth vegetarianism is regarded as highly praiseworthy. The verses of Manu which say this are as follows:

Firstly, Manu says,

कुर्याद्धृतपशुं संगे कुर्यात्पिष्टपशुं तथा ।

न त्वेयं तु यृथा हनतुं पशुमिच्छेत्कदाचन ।।⁽⁵⁴⁾

Desiring to eat flesh rather let him eat its effigy made of dough and clarified butter than eat the unconsecrated flesh of an animal not immolated in a religious sacrifice.

In the second instance Manu regards that,

गृहे गुरावरण्ये वा निवसन्नात्मवांक्षिजः ।

नाविदविहितां हिंसामायद्यपि समाचरेत् ।।⁽⁸⁶⁾

"Even in times of distress, a self controlled Brahmana, whether residing in the forest, or the house of his own, or of his perceptor, must not do an act of killing not sactioned in the Vedas."

Thirdly, it is said

योऽर्हिसकानि भूतानि हिनस्त्यात्मसुखेच्छया ।

स सर्वस्य हितप्रेप्सुः सुखमत्यन्तमश्नुते ।।⁽⁸⁶⁾

He, who in quest of his own pleasure kills the harmless animals, does not obtain any happiness, whether dead or alive.

Manu, in a strongly worded injunction opines that

नाकृत्वा प्राणिनां हिंसा मांसमुत्पद्यते क्वचित् ।

न च प्राणिवद्यः स्वर्ग्यस्तस्मान्मांसं विवर्जयेत् ।।⁽⁸⁷⁾

Flesh cannot be obtained without killing a beast, animal-killing does not lead to heaven; hence, a man must forswear (eating flesh).

Manu, also asks for forswearing of meat, when he says

समुत्पत्तिश्च मांसस्य वधवन्धौ च देहिनाम् ।

प्रसमीक्ष्य निवर्तेत सर्वमांसस्य भक्षणात् ।⁽⁶⁶⁾

Considering the origin of flesh (which is a kind of transformed menstrual blood) and the pangs of death and incarceration the beast suffers, he must forswear eating all kinds of flesh, (whether approved of or prohibited by the ordinance).

The virtues of abstinence from flesh sonsumption are praised by Manu as in,

न भक्षयति यो मांसं विधिं हित्वा पिशाचवत् ।

स लोके प्रियतां याति व्याधिभिश्च न पीड्यते ।⁽⁶⁷⁾

He, who does not eat flesh, like a monster, in violation of the ordinance, becomes a favourite with all and is not afflicted with any disease.

Once again Manu says,

अनुमन्ता विशसिता निहन्ता क्रयविक्रयी ।

संसकर्ता चोपहर्ता च खादकश्चेतिघातकाः ।⁽⁷⁰⁾

He who sanctions the killing of an animal, he who quarters its slaughtered body, the actual immolator, the seller and buyer of its flesh, the man who cooks the flesh, he who serves that cooked flesh to the eaters and he who eats it are called the killers.

Abstinence from meat, gains merit, according to Manu,

वर्षे वर्षेऽश्वमेधेन यो यजेत शतं समा : ।

मांसानि च न खादेद्यस्तयो : पुण्यफलं समम् ॥⁽⁷¹⁾

The merit of him, who forswears the use of meat, is equal to that of one who performs the Asvamedha sacrifice, each year, for a century.

Similarly, in meaning is this verse which says,

फलमूलाशनैर्मध्वैर्मुन्यन्नानां च भोजनै : ।

न तन्फलमवाप्नोति यन्मांसपरिवर्जनात् ॥⁽⁷²⁾

By living on fruits, bulbs, or foodgrains used by the holy sages, a man does not acquire the same religious merit as he does by forswearing the use of meat.

Manu says,

मांसं भक्षयिताऽहमुत्तं वस्य मांसमिहादम्यहम् ।

एतन्मांसस्य मांसत्वं प्रवदन्ति मनीषिणः ॥⁽⁷³⁾

He, whose flesh I eat in this life, shall eat my flesh in the next; this is the essential attribute of flesh, as disclosed by its etymological signification, according to the wise.

This is also put as -- "Me he (mam sah)" will devour in the next (world), whose flesh I eat in this (life); the wise declare this (to be) the real meaning of the word 'flesh' (mamsah).⁽⁷⁴⁾

The essence on the virtues of one who forswears consumption of flesh is given by Manu as:

न मांसंमद्येणो दोषो न मद्ये न च मैथुने ।

प्रवृत्तिरेषा भूतानां निवृत्तिस्तु महाफला ।।⁽⁷⁶⁾

No sin is attached to wenching, flesh eating, or wine drinking, these are the natural propulsions of man, but abstinence bears greater fruits.

Hence, we can see that the last verse sums up the high ground on which vegetarianism was placed. But the one pertinent question, which arises, is what was the reason for this contradiction, and why was vegetarianism elevated to a high pedestal. On this situation a number of opinions have been forwarded "Vegetarianism was for more than an interesting new dietary custom. It was a focal point for what might be called a revaluation of all values in ancient India. marks a critical moment in the orthodox priestly tradition. It is an attempt at a reconsolidation of an already ancient heritage as well as a reorientation of the heritage around new "principles of life" (dharma). The times called for both challenged on the one hand by "orthodox" renunciators, and on the other by Buddhists and Jains who were increasingly garnering political patronage."⁽⁷⁶⁾

The varna was a social system which was responding to the changes in the external environment, and at the same time initiating and adopting changes in order to survive and retain its distinct and separate identity. As Dumont quoting Alsdorf suggests, "Buddha

refused to endorse the prohibition on eating meat and fish: it was enough that the animal was not killed for the monk, or that this was believed in good faith to be so. In short, the renouncer has his own ideal and his own morality, but he has no tendency to impose it on the men-in-the-world."⁽⁷⁷⁾ Dumont carries forward the argument and says, "After all, how many kinds of spiritual authority were there? Only two: the Brahman and his tradition, the renouncer and his sects. How many factors of initiative and invention? Only one, the renouncer, faced with whom the Brahman was such an effective factor of integration and aggregation that in the long run he almost completely absorbed his rivals. There was rivalry in public opinion between these two sorts of 'spirituality', and this by itself can contribute to the explanation of the efforts to go one better, the hardening of the doctrines as, penetrating into the social world proper, they were taken up by the Brahman on his own account. (Let us not forget that the Kshatriyas have traditionally remained meat eaters. In short, the Brahman would have adopted vegetarianism so as not to be outdone by the renouncer qua spiritual leader."⁽⁷⁸⁾

Hence, the Brahmana, the leaders in the social organization and the repositories of knowledge and high values adopted vegetarianism for two reasons; first, to maintain the high ground against the new faiths

and to meet their challenge head on, and secondly, since within the social system they adopted the most stringent of the moral virtues for themselves, in keeping with the hierarchical place value in the division of labour.

"Priestly social precedence, otherwise put, may have become virtually indisputable only with the introduction of non-violence as the criterion for 'purity' and as the paradigmatic practise for social standing. To the degree that imitation of the priest's pattern of life is operative as a form of upward mobility in caste society, vegetarianism and now violence became generalized ideals".⁽⁷⁹⁾

This, stand is similar to that view in the Arthashastra⁽⁸⁰⁾ which enjoins that non-violence (i.e. by implication vegetarianism) was only for the parvrajaka (i.e. wanderer). Hence, Jacobi was induced to comment that ahimsa originally confined to the renouncer, became general under the influence of Jainism and Buddhism.

There is a widespread picture of Hindu society which visualizes the Brahmin priest scholar at the top of a vast hierarchy of hereditary communities that do not intermarry or even eat outside the caste. However, in the preceding pages an attempt had been made to indicate that transfer of food and water, were not rigidly compartmentalized but it provided enough leverage for all the

constituents parts to function as an organic system. At the same time providing for measures which maintained their distinct group identities and affinities. In the last it can be said "the fulfillment of the prescriptive side of dharma was impossible; and the descriptive aspects of the 'principles were necessarily constituted as one large set of 'emergencies'. Manu, like all texts caught in such a web is left with unrealizable ideals, on the one hand, and applicable rules for a reality that has been relegated to a 'status in extremis'. Manu is not so much a text on dharma as it is on apad-dharma-the principles of life led in a perpetual state of crisis."⁽⁸¹⁾

Thus Louis Dumont concludes that --

"The general hierarchy of foodstuffs, which gives each caste's diet its hierarchical value is chiefly for its main cleavages, which go back into history, (i.e. veneration of the cow and untouchability of beef eaters) inferiorization of a meat diet and consumption of alcohol as compared to a vegetarian diet. But this classification of foods essentially refers back to the classification of men and to relationships between human groups, and is not a basic and independent fact resulting from a universal classification into pure and impure."⁽⁸²⁾

NOTES

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- (69) – ibid - V.50
- (70) – ibid - V.51
- (71) – ibid - V.53
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- (73) – ibid - V.55
- (74) Manusmriti: V.55 SBE Vol. 25 G. Buhler
- (75) Manusmriti: V. 56 vrajivjan Indological Series Vol.6
- (76) Laws of Manu; Wendy Doniger & Brian K. Smith :p.XXXIII ff 1991 Penguin Classics
- (77) Dumont p. 148-149
- (78) L. Dumont ; Homo Hierarchicus p.150
- (79) Wendy Doniger & Brian K. Smith: Laws of Manu p. XXXVIII
- (80) Arthashastra; I.3
- (81) Wendy Doniger & Brian K. Smith Laws of Manu p.XI 1998 Penguin Classics
- (82) Louis Dumont : Homo Hierarchicus p.140-144g

CHAPTER-IX

EPILOGUE

Caste as a subject and theme has been under extensive debate and indepth arch for a long time. And the prejorative and negative inference to caste ably equal, if not exceed, those assigned to race, a term as much maligned aste. At the United Nations' World Conference, "Against Racism , Racial rimination, Xenophobia , and Related Intolerance", held in Durban, South ca, between August 31- September 7, 2001, there was an attempt to put e on the international agenda.

Andre Beteille, a noted Sociologist, who has devoted his entire life to the y of caste, wrote in the Hindustan Times, "This is wrong because caste is a form to race and untouchability, no matter how reprehensible, it is not a i of racial discrimination.One must not misuse the metaphor of race i in a good cause.... and who will deny that the abolition of untouchability is od cause ? Extensive misuse of the metaphor of race has had its tragic equences in Europe. Once it is conceded that caste discrimination is a form icial discrimination, there will be nothing to prevent religious-- or linguistic rities from saying that they too are victims of racial discrimination."

It is well to remember that the noted geneticist and biometrician J.B.S. lane has said, "As for the world race, it has so many different meanings as

to be useless in scientific discussion, though very useful for getting members of the same nation to hate one another."

If we replace the term race with caste, the implications of the statement do not diminish in value and import. Hence, it is of extreme urgency that a modern and scientific perspective of viewing the caste society be applied. It is against this background that an approach and study howsoever limited, has been made in the proceeding chapters.

Many reams have been devoted to analysing Caste, and literature on this subject has been burgeoning far more rapidly than on any other such issue. The reason for the keen interest lies in the fact that the Caste system is regarded more as an anomaly and less as an institution, the anomaly being its centrality on hierarchy as being the fundamental social principle. In present and modern society, which is dedicated to the issues of egalitarianism and equality, the negation of any such themes is in itself a heinous crime and a malaise.

The modern emphasis on equality and egalitarianism is an outcome of explosion that shattered the foundations of the medieval Europe. That explosion was the French Revolution, which said 'La Liberte ou La Mort' (Liberty or Death), and the detonator for which was provided by the American War on Independence, inspired by the revolutionary ideal that all men were created equal. In the Declaration of Independence drawn up in 1775, Thomas Jefferson, listed "Life, Liberty, and Pursuit of Happiness" as among the rights

of Man, while the French revolutionaries highlighted "Liberty, Equality and Fraternity." The basics for the modern, scientific and humanist individual were chartered out.

As Louis Dumont writes-- "our first aim is to understand the ideology of the caste system. This ideology is directly contradicted by the egalitarian theory we hold. And it is impossible to understand the one whilst the other - modern ideology- is considered a universal truth , not simply qua a political and moral ideal- which is a declaration of faith beyond dispute- but qua an adequate expression of social life- which is a naive judgement."¹

The modern feature which is most immediately opposed to the caste system is equality. The conception of equality is connected fundamentally with individualism which deems that the whole of humanity is present in each man and that each man is free and equal. This equality and individualism are the two great ideals of modern age, and as soon as a collective end is adopted by several men , the liberty is restricted and their equality is brought into question.

Equality as a foundation of modern age is a recent phenomenon. Rousseau, the father of equality, and author of social contract, opened his book with the famous phrase, " Man was born free, and every where he is in chains," and this phrase inaugurated the era of equality and revolution. However, Rousseau's discourse deserves deeper analysis. "In the Discourse on the Origin of Inequality" Rousseau's prime merit is to distinguish between natural

inequality, which is but a small thing, and moral inequality, or "inequality of combination," which results from the exploitation of natural inequality for social ends."² This reality of Rousseau's moderate views on equality are evident, when at the end of Book I of the Social contract he defines equality as a political norm." The fundamental compact substitutes, for such physical inequality as nature may have set up between men, an equality which is moral and legitimate."³ And, goes on to say, that " inequality is inevitable and that true equality consists in proportion."⁴

In present times and age, equality and liberty are intimately related to the individual as constitutions of most democratic nations in the world seek to assure the liberty and equality of persons, so as to allow for the realization of the fullest potential of individual. Tocqueville describes individualism as, "Individualism, is a mature and calm feeling, which disposes each member of the community to sever himself from the mass of his fellow creatives; and to draw apart with his family and his friends, so that, after he has this formed a circle of his own, he willingly leaves society at large to itself...."⁵ Thus, as per Tocqueville's preception of individualism the whole conception is of an extremely selfish nature, where concern for well being within the immediate circle of family and friends, with no effort or attempt made for the well being of the society at large. This sentiment Tocqueville contrasts with those." Among aristocratic nations, as families remain for centuries in the same condition, often

on the same spot, all generations become as it were contemporaneous. A man always knows his forefathers, and respects them; he think he already sees his remote descendants, and the loves them. He willingly imposes duties on himself towards the former and the latter; and he will frequently sacrifice his personal gratifications to those who went before him and to those who will come after him. Aristocratic institutions have, moreover, the effect of closely binding to several of his fellow-citizens. As the classes of an aristocratic people are strongly marked and permanent, each of them is regarded by its own members as a sort of lesser country, more tangible and more cherished than the country at large. As in aristocratic communities all the citizens occupy fixed positions, one above the other, the result is that each of them always sees a man above himself whose patronage is necessary to him, and below himself another man whose cooperation he may claim..... It is true that in those ages the notion of human fellowship is faint, and that men seldom think of sacrificing themselves for mankind; but they often sacrifice themselves for other men. In democratic ages, on the contrary, when the duties of each individual to the race are much more clear, devoted service to any one man becomes more rare; and the bond of human affection is extended, but it is relaxed. Among democratic nations new families are constantly springing up, others are constantly falling away,..... As each class approximates to other classes, and intermingles with them, its members become indifferent and as strangers to one another. Aristocracy had

made a chain of all the members of the community, from the peasant to the king : democracy breaks that chain and severs every link of it.... They owe nothing to any man, they expect nothing from any man; they acquire the habit of always considering themselves as standing alone, and they are apt to imagine that their whole destiny is in their hands. Thus not only does democracy make every man forget his ancestors, but it hides his descendants, and separates his contemporaries from him; it throws him back for ever upon himself alone, and threatens in the end to confine him entirely within the solitude of his own heart."⁶ This extensive text quoted from Tocqueville apart from discussing at great length and in extremely fine detail the contrast between aristocratic society and modern day societies also in some manner, " evokes the caste system and its hierarchized interdependence."⁷

Hence, the attempt in this work has been to treat the Varna organisation as a holistic unit of social formation. It may be said that, "A civilization may be treated as an energy/information system of communicating interacting components, such as in understanding family and caste. Each individual in the social group has to code or to symbolize his information and then put it in a classificatory system or category - better known as cultural symbols and language... its inputs (information received) and outputs (resultant behaviour), both of which are not random but are selected from among the various responses."⁸ The same author, S.C. Malik continues and says, "A civilization

may also be said to be an action system, i.e., in terms of the basic ways whereby its sub-systems interact and operate...cannot simply be characterized by the dominance of one or two subsystemic identities, whether it be economic, value systems, culture, caste, etc.... the identity of the large system civilization for operational purposes has to be identified with some crucial core areas, components and elements⁹

.....It is worth noting that the concept of systems is the central element in functionalism...to produce a schematic formulation of the distinctive traits of any system,...and to enable us to ask the following questions... What are the crucial socio-cultural institutions necessary for the maintenance of a system more than others; and if so, which are they?¹⁰

'In India, one of the characteristic features is the system of caste, which is practically equated with the social system...an understanding of the caste as a system will not come about by increasing available quantitative data with regard to number of castes and sub-castes, and related problems. They are by themselves meaningless for there is no end to the innumerable categories of sub-castes, which are internally partitioned very differently in the North and in the South....Thus, caste as a system is understood not by the number of its constituent elements but by the revealed principles that govern the arrangements of its various fluid and fluctuating elements.¹¹

Hence the caste system in India is usually described as that what "...divides the whole society into a large number of hereditary groups, distinguished from one another and connected together by three characteristics: separation in matters of marriage and contact, whether direct or indirect (food); division of labour, each group having, in theory only within certain limits; and finally hierarchy, which ranks the groups as relatively superior or inferior to one another."¹²

The three elements of separation, division of labour and hierarchy are intimately related to each other and which sociologists, although reluctantly , accept them as arising out of the " inevitable inequalities of aptitude and function." Thus the rationale of hierarchy is explained by the sociologist Talcott Parsons , "we conceive action to be oriented to the attainment of goals, and hence to involve selective processes relative to goals. Seen in their relations to goals, then, all the components of systems of action and of situations in which action takes place, are subject to the process of evaluation...Evaluation in turn has, when it operates in the setting of social systems of action, two fundamental implications. First, the units of systems, whether they be elementary unit acts or roles, collectivities, or personalities, must in the nature of the case be subject to evaluation...But given the process of evaluation, the probability is that it will serve to differentiate entities in a rank order...The second implication is the well-known one that it is a condition of the stability of

naturally, a large amount of hereditary succession to office and to business. We see the same in England or any other country, although every one is free to change his occupation as he prefers. In Egypt, on the contrary, no artisan was allowed to have another trade or employment, or be reckoned in any other class. Hence, once in a trade, it was impossible to move out of it, and the natural facility of a boy learning his father's trade tended to fix each generation into the same line. Thus the impression which the Greeks received when stepping to such a society was that its structure was a group of genea or hereditary tribes."¹⁵

As regards the three middle class professions, viz., those of a priest, a scribe, and a warrior, though they generally ran in the same family, yet there was no restriction against anyone following any of these callings, even if one's father might not have professed that particular calling but had carried on one of the other two. Hence one and the same man, on suitable occasion could be a priest, a military or naval commander or could act as a scribe and an official."¹⁶ It is also said that a general in the army could marry the daughter of a priest, and his children could be scribes, priests or public functionaries.

Among the Sumerians, the aristocracy of the city was formed by the priests and the officials, while the free landholding citizens formed the middle class, who worked their lands with the help of the slaves. The code of Hammurabi gives the division of the Sumerian society as follows--

- (i) awelu: free men

- (ii) mushkenum: military or civilian class, plebians.
- (iii) wardu: slaves

The fragments of the Sumerian laws have come down to us in the code of Hammurabi (i.e. 282 laws), and they recognize inequalities among the community at large. In the code of Hammurabi, the nature and the amounts of fine and punishments are mostly determined by the class status of the offender and the sufferer. It is said that, "if a man has pierced the eye of an awelum, they shall pierce his eye," but, "if he has pierced the eye or broken the bone of a mushkenum, he shall pay one mina of silver; and in the case of a slave, one half of its value.(laws 196,198,199) Similarly the ability to pay fee depended upon the status of the patient; which said that, the cost of a life-saving operation was fixed at ten shekels of silver for a awelum, five shekels for a mushkenum and two shekels for a slave.(Laws 215-217) This implied that, the higher the status the higher was the fee charged. Similarly, on a reading of the code of Hammurabi, it can be said that the law of the "limb for limb" was restricted to those cases only where the sufferer belonged to the highest class, physical injuries in other cases being generally compensated by fines (i.e. Laws 196,198 and 199). However, in the case of theft, the patrician paid thrice the fine that the plebians had to pay. While divorcing a wife, for whom no bride - price was paid, the patricians had to pay her thrice the award that was demanded of a plebian. Sir Leonard Woolley¹⁷ thinks that this class-system was military in its

origin, and that was the reason why the lives of the patricians, who formed the regular army, were more valued than those of the non-combatant citizens. This theory enables us to explain why in those cases where property was involved the higher classes also had greater responsibilities.

G.S. Ghurye¹⁸ writes that, "well-marked status-groups within a society, distinguished from one another by the absence of freedom of inter-marriage, may, therefore, be considered to be a common characteristic of the mental background and social picture of the Indo-European cultures." Thus, what according to Ghurye holds true for the Indo-European societies can also apply to the Indian context which is under study. It can therefore be safely said that the elements of the caste system which were said to be unique to the Indian sub-continent also find their echoes and parallels in other ancient civilized societies also.

The final point to be discussed is that, if the caste system is seen as a prejudicial system, and as useless to be the body politic then it should necessarily be allowed to self destruct and finally disappear. Yet "It is a remarkable fact, that quite apart from the Indians, no westerner who has lived in India, whether the most fervent reformer or the most zealous missionary has ever, so far, as is known, attempted or recommended the abolition pure and simple of the caste system...."¹⁹

Abbe Dubois²⁰, writing in *Hindu Manners, Customs and Ceremonies* has to say, "I believe caste division be in many respects the chef-d'oeuvre, the happiest effort of Hindu legislation. I am persuaded that it is simply and solely due to the distribution of the people into castes that India did not lapse into a state of barbarism, and that she preserved and perfected the arts and sciences of civilization whilst most other nations of the earth remained in a state of barbarism. I do not consider caste to be free from many great drawbacks; but I believe that the resulting disadvantages, in the case of a nation constituted like Hindus, more than outweigh the resulting evils..... Such an institution was probably the only means that the most clear-sighted prudence could devise for maintaining a state of civilisation amongst a people endowed with the peculiar characteristics of the Hindus"

Abbe Dubois is convinced that had the Hindus not been 'kept within limits of duty and obedience by the system of caste, and by penal regulations attached to each phase of it..... The whole country would necessarily fall into a state of hopeless anarchy....." Dubois also says that the whole principle of the division of society into hierarchy was not confined to India only, and giving the example of Moses says that, ".....Moses availed himself of the same institution, as being the one which offered him the best means of governing the intractable and rebellious people of whom he had been appointed the patriarch.

Commenting upon the systems approach to the varna organisation,

Dubois says, "as the ties of blood relationship formed so insecure a bond between different members of a community, and guaranteed no such mutual assistance and support as were needed, it became necessary to bring families together in large caste communities, the individual members of which had a common interest in protecting, supporting, and defending each other. It was thus that the links of the Hindu social chain were so strongly and ingeniously forged that nothing was able to break them."

Thus, Abbe Dubois records from the beginning of the book a fundamental feature of the system: the specialisation of labour is oriented towards the needs of all. "They set out from the cardinal principal common to all ancient legislators, that no person shall be useless to the commonwealth."

De Nobili, an Italian of noble birth who worked among the high caste nobles of Madura, in the 17th century and discarding the ways of the Pourtugese and the Christians was of the opinion that the caste system in India represented only an "an exteme form of those distinctions of rank and estate well known in the west, and consequently was essentially only a social, not a religious matter...."²¹ as quoted in Louis Dumont. Scholars and Indologists will continue to resolve the debate.

NOTES

¹ Louis Dumont: *Homo Hierarchicus* (1970, 1998 Edition)

² Louis Dumont: *Homo Hierarchicus*, p.12

³ Rousseau: *Social Contract*, p.19

⁴ Rousseau: *Social Contract*, p.216 (note)

⁵ Tocqueville: *Democracy in America*, II, part 2, p.90-92

⁶ Tocqueville: *Democracy in America*, II, part 2, p.90-92

⁷ Louis Dumont: *Homo Hierarchicus*, p.18

⁸ S.C. Malik: *Understanding Indian Civilization - A Framework of Enquiry* p.38. IAS.1975

⁹ S.C. Malik: - *ibid* - p.39 -

¹⁰ S.C. Malik: - *ibid* - p.39 - from Ernest Nagel: *A Formalization of Functionalism* in J.J. Demerath & R.A. Peterson (Eds.) *Systems Change & Conflict*, p.77 - 85, NY & London

¹¹ S.C. Malik " " p.42-43 " "

¹² C. Bougle: *Essais sur le regime des castes* p.4, Eng. Trans. of the introduction in *Contributions to Indian Sociology* II, 1958. As quoted in *Homo Hierarchicus*

¹³ Talcott Parsons: *A Revised analytical approach to the theory of social stratification in class, status and power*, ed. by Reinhard Bendix & Seymour M. Lipset Gleinice. 1953

¹⁴ Louis Dumont: *Homo Hierarchicus*, p.20

¹⁵ Sir W.M. Flinders Petrie: p.11-12 *Social Life in Ancient Egypt* 1923

¹⁶ A Erman. *Life in Ancient Egypt*, p.460 (Trans H.M. Tied.) 1894

¹⁷ Sir Leonard Woolley: p.97. *The Sumerians* 1928

¹⁸ G.S. Dhurye: *Caste & Race in India*, p.159 1932 (Reprint 1999) Popular Prakashan

¹⁹ Louis Dumont: *Homo Hierarchicus*, p.1

²⁰ Abbe Dubois. p.30ff. *Hindu Manners, Customs and Ceremonies* 1906 Fifth Imp. 1999 Rupa & Co.

²¹ Louis Dumont: *Homo Hierarchicus*, p.24

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